

The Library of Congress'

EARLY STATE RECORDS PROJECT

converted from the original microfilm held by the
Vincent C. Immel Law Library, Saint Louis University

through the generous support of a grant from the

Council on Library and Information Resources

OKLAHOMA STATE LIBRARY
ARCHIVES DIVISION
109 STATE CAPITOL
OKLAHOMA CITY 5, OKLAHOMA

DOCUMENTS FROM THE OFFICE OF THE CLERK OF THE SUPREME COURT
TERRITORY OF OKLAHOMA

JOURNAL OF THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA, VOLUME 4,
JANUARY 3, 1899 - DECEMBER 29, 1900

COVER TITLE: RECORD, SUPREME COURT, TERRITORY OF OKLAHOMA

861 Archer, John W. et al., vs. United States,	78-91-92-103-132-244
873 Allen, Geo. W. et al., vs. Board Election Commissioners of Grant Co.,	84-97-99-106-157-165-170-263
874 Atchison, Toepka & Santa Fe R.R. Co., vs. J.M. Haynes, et al.,	86-147
887 Acers, Allen I. vs. Warren K. Snyder	97-155
940 Axholm, Clay vs. United States	197-230-264
904 Alva State Bank vs. J.P. Renfrew, Treas. et al.,	201-216-250-260-349
948 Akins, S.A. vs. S. A. Moore	212-300-307-355
992 Annis, O. W. vs. Maggie Bell	302

No. 4.

JOURNAL SUPREME COURT,
OKLAHOMA TERRITORY.

January and June Terms, 1899.
January and June Terms, 1900.

670	Bell, Hubert O. vs. Ter. ex rel Ida L. Dillman	1-56
802	Beberstein, Levi vs. Territory	3-34-139
700	Burkett, Solon, et al., vs. Lehman-Migginson Grocer Co.	5-43-58
719	Board Com'rs Oklahoma County vs. Ed. L. Dunn	6
731	Bowles, Jesse J. vs. Wm. Bushman	6-18-39
750	Betts, Henry, et al., vs. Milton Mills	8-105-182
812	Brewer, H.M., et al., vs. J.W. Asher	11-47
814	Bridges, Ed. vs. D.M. Thomas	11-36-147-182
823	Barnett, John B. vs. Martha J. Ruyle	12-36-246
673	Board Education of El Reno vs. Joseph Hobbs (Infant)	16-64
682	Board Com'rs of "D" County vs. F.H. Gillette	16-237
737	Barnes, Burton S. et al., vs. J.W. Lynch et al.	20-44-58-61-67-99-101-175-191-194-195-215-221-233-266
745	Browning, Wm. C. et al., vs. Chas. H. De Ford	8-21-38-45-108-109
770	Board Com'rs "D" County vs. Joel R. Burrow	21-26-51
772	Board Com'rs Custer County vs. Rob't G. Moon	26-51
773	Board Com'rs Washita County vs. F. M. Hubble	26-52
774	Board Com'rs "D" County vs. F.H. Wright	26-52
775	Board Com'rs Washita County vs. Gustavus DeLana	26-29-213
776	Board Com'rs Custer County vs. Gustavus DeLana	27-52
777	Board Com'rs Custer County vs. Geo. Theiss	27-88
778	Board Com'rs Custer County vs. H.H. Beatty	27-85
780	Board Com'rs Roger Mills County vs. Nat. Rowden	28-150
784	Board Com'rs Washita County vs. James E. Helso	28-212
783	Board Com'rs Roger Mills County vs. Hall Lith. Co.	28-149
785	Board Com'rs Washita County vs. Bank of Minco	28-212
788	Board Com'rs Day County vs. F. M. Hubble	28-33-53
789	Board Com'rs "D" County vs. H. and W. Sauer	29-53-214-220
790	Board Com'rs Roger Mills County vs. H. and W. Sauer	29-150
779	Board Com'rs "D" County vs. F. M. Hubble	30-52
786	Board Com'rs Washita County vs. First Nat'l Bank El Reno	30
787	Board Com'rs Custer County vs. First Nat'l Bank, El Reno	30-85
795	Brewer, H.M. et al., vs. M. McKinley	33-46
781	Board Com'rs Washita County vs. Joel R. Burrow	53
843	Brown, Morris vs. Laura Donnelly	57-87-155-172-208
827	Bailey, Chas. W. et al., vs. Territory	78-245
825	Brakefield, C.E. vs. James Lucas	81-93
853	Brown, Wylie, vs. Caroline Brown	83-92
856	Blackwell, Rosa, et al., vs. H.J. Holt	83-154
872	Board Com'rs Woods County vs. W.R. Oxley	84-150
876	Bank of Blackwell vs. John Dean	84-199-246
771	Board Com'rs Custer County vs. Joel R. Burrow	86
835	Barnard, Geo. D. & Co., vs. Greer County	93-146
832	Bortwell, Fremont vs. Wm. R. Haines	95-213-350

871	Boston, George vs. G.D. Hawett, et al.,	97-98-148
893	Beaver, J.B. vs L. Haines Buxton	111-112-125-131-135-200-223-237
320	Brittain, Smith & Co., vs. Burnam, Hanna, Munger & Co.	142-199-249
897	Burrows, Joel R. vs. Board Com'rs Washita County	178
886	Boggs, Geo. G. vs. United States	197-228-262-345
909	Board Com'rs Canadian county vs. F.M. Hubbel	202-220
937	Baker, W.W. vs. Nichols & Shepard co.	203
782	Board Com'rs Washita County vs. H.D. Young	213
905	Balduff, Fred, et al., vs. Onan F. Griswold	223-244
968	Bailey, Chas. W. and Harry Plumer McCool -Habeas Corpus-	255-299
969	Board Com'rs Garfield County vs. Isenberg	300-325-326
957	Browning, et al., vs. Akins et al.	300-350
971	Bayless, Florence, vs. Rob't McFarland	300
985	Best, Geo. W. vs. Wm. L. Frazier	301
981	Barse, Geo. R. Live Stock Co., vs. A.J. McKinster	311-348
357	Bockfinger, Henry H. vs. John W. Foster et al.	350
1051	Buckner, C.R., -Habeas Corpus-	375

749	Coulson, Geo. W. v. Ty. ex rel Jesse J. Dunn	3-21-45
678	Cutter, O. I. vs. Territory	4-13-50
703	Cox, J.R. vs. Gille Hardware & Iron Co.	5-136
721	Cogdall, W.H. vs. J.D. Cunningham, Treas.	6-341-342
746	Caffrey, Richard F., County Clerk, vs. H. Overholser	8-45
811	Crammer, A.H., et al., vs. Board Com'rs Beaver County	11-89-173
657	Choctaw, Okla. & Gulf Ry. Co. vs. Andrew W. Scott	15
741	Cook, Jonas H. et al., vs. Emma D. McGord	17-79-85-89-149-188-260-295
718	Crags, John et al., vs. Elijah Earle	17-18-137
724	Consolidated Steel & Wire Co., et al., vs. Burnam, Hanna, Munger & Co.	18-137
730	Casey, Wm. et al., vs. Mack Mason	22-30-173
800	Carpenter, G.M. vs. W.F. Pierce, Sheriff,	34-80-176
744	Caffrey, Richard F. vs. Ty. ex rel Cunningham	68
	Caffrey, Richard F. -Bond-	69
688	Crawford, Carl vs. Board Com'rs Noble County	79-86-139
854	Carmichael, Elmer H. vs. W.F. Pierce, et al.,	83-86-199-307
869	Conley, B.J., et al., vs. H.H. Horner, et al.,	83-94-199-221-353
834	Clark & Courts vs. Greer county	93-145
419	Central Loan & Trust Co., vs. Campbell Commission Co.	135-143-144
888	Core, C.H. vs. W.H. Smith, et al.	153
941	Collins, John, et al., vs. H.J. Green, Treas. et al.	205-226-228-320-324-354
972	Comstock, J.O. - Habeas Corpus-	302-329
991	Cecil, Martin, Treas. vs. Board Com'rs Washita County	307-311-331
993	Colcord, C. F. vs. Wm. P. Conger	311-349
1030	Cox, R.S. vs. United States	343
1031	Cox, R.S. vs. United States-Mandate-	343
	Capron, Stella- Revocation-	344
1016	Curtis, John- Habeas Corpus-	356

720	Davis, J.W. vs. Robert W. Higgins	6
597	Downman, R.H. vs. George Saunders	61
838	Divine, J.W. et al., vs. Mary J. Silvers	91-138
451	Dix, John A. vs. John Smith	173
939	Dunham, Wm., Treas. vs. Henry Linderman, et al.	203
949	Decker, Harry R. vs. S.D. Cahill	204-308-311-324
902	Drury, Joseph vs. Territory	204-210-247-255
889	Dunn, Ed. L. vs. Annie L. Yakish, et al.	216-329
796	Easton, H.B. vs. Henry Broadwell	10-103-139
683	Ellis, Henry C. vs. Territory	13-43-88-100-152
542	Erisman, H.W. vs. J.J. Kerwin	48-62
701	Everett, Elnora, vs. S.A. Akins	48-58
870	Ellis, Ed. vs. United States	78-84-197
917	Endicott, Geo. P. vs. Herbert E. Ellis et al.	202-214-240-259-295-353
1052	Epley, C.G. et al. vs. Chas. Loran Moore	375-376
1058	Epley, C.G. et al.-Habeas Corpus-	376

623	Florer, John W. et al., vs. Board Com'rs Pawnee County	4-66
742	Fant, D.R. vs. J. T. Campbell et al.	7-20-79-89-140
809	Fuller & Fuller Co., vs. Geo. P. Johnston	3-31-81-29-141
758	Frazier, H.F. vs. Edward Prince	22-66-100
845	Foust, John vs. Territory	79
823	Friedman, M. vs. Maurice Weisz	81-146
847	Ferguson, James A. vs. A.J. Blackwell, et al.,	94-138
826	Fire Ex. Mfg Co., vs. City of Perry	98-155
926	Foster Lumber Co., vs. Aaron Robinson	209
951	Fox, J.D. vs. Birdie F. Easter	261-348
974	Fox, et al., vs. Territory	304-327-347
982	Foust, John Y. vs. Territory	308-326-355

739	Gibson, C.L. vs. Weller Bros.	7-20
740	Glover, John B. vs. Benj. F. Swartz	7-35-146-182
801	Godfrey, J.T. Sheriff, et al., vs. Wright & Claunch	10-46
864	Guthrie, City of, vs. T.W. Harvey Lumber Co.	83-247
846	Gunn, Wm. M. vs. Chas. F. Harris	82-86
875	Garton, Frank E. et al., vs. Hudson-Kimberly Pub. Co.	97-138-182
610	Goodrich, D.M. vs. Okla. National Bank	148-188-213-224-229
626	Grand Lodge of A.O.W. vs. Oliva Furman	152
903	Gardner, Russell E. vs. Board Education of Perry	183-208-233-253-264
565	Guthrie National Bank vs. City of Guthrie	185-186
915	Grothe, George vs. Territory	198-221-304-310
913	Greenville National Bank vs. Evans-Snyder-et al.,	223-239-260
969	Garfield Co. vs. Isenberg	300-325-326
450	Gray, George et al., vs. Jos. Stiles, et al.	305
123	Guthrie National Bank vs. McElhinney	306

708 Hyde, H.H. vs. Territory	1-21-37-48
665 Huddleston, D.F. vs. Noble County	4-88-139
709 House, John B. vs. L.A. Swartzel, et al.,	5-15
751 Hardwick, Mary C., et al., vs. C.F. Atkinson	8-79-141
764 Hess, Caroline, vs. W.W. Trigg, et al.,	10-36-65
808 Humphrey, Lewis, et al., vs. Maggie Hunt,	10-31-81-174-191-207
815 Harris, Alfred D. vs. Kyle McClung	11-38
818 Hall, J.S. vs. Oren A. Powell, et al.	11-65
819 Hockaday, Rollin M., et al., vs. M.F. Jones	11-34-47
762 Hughes, James vs. Territory	13-54-153
763 Horn, Fred vs. Territory	13-67-153
791 Hoffman, Roy V. et al., vs. Board Com'rs Pawnee County	29-54
829 Huber, David S. vs. J.A. & C.C. Zimmerman	81-151
832 Huster, Fred vs. J.W. Wynn	82-146
839 Heaton, Augustus vs. Adelaide Heaton	82-103
843 Hughes, David T. vs. Territory	94
881 Harmon, Henry vs. Territory	197-240
890 Herbein, Henry R. vs. A.E. Moore et al.,	200-323-354
906 Higgins, Robert et al., vs. Wm. Butler et al.,	201-325-335-354
943 Halff, Mayer, et al., vs. J.M. Rutter, Sheriff, et al.,	205-226-229-325-334-354
983 Hanenkratt, D.V. vs. Nellie M. Hamil	301-326
984 Hunt, Lily A. et al., vs. Chas. W. Garland et al.,	301
961 Harvey, S.G.B. vs. Territory	304-310

761	Ingram, J.R. vs. Mary A. Bourbonnais	10-22
	Irwin, Clinton F., Justice, Commission and Oath	59
622	Johnson, J.P. et al. vs. Board Com'rs Pawnee County	4-66
732	Jackson, Ambrose vs. Frederick B. Dewey	6-18
733	Jackson, Ambrose vs. The Jackson Plow Mfg Co., et al.,	6-14-16-39
753	Johnson, M.H. vs. Board Com'rs Pawnee County	9-29-49-61-77
851	Janes, Fred R. vs. Citizens Bank of North Enid	82-94-95-250
859	Johnson, Geo. H. vs. J.J. Douglas Co.	83-140
614 1/2	Jackson, Lettie vs. Oliver C. Thornton	103-181
868	Jones, Ed. et al., vs. Ed. P. Kelly	183
952	Jenkins, Thos. H. et al., vs. Hugh J. McGowan	203-248
919	Justus, Edward B. vs. Territory	207-232-254-261
954	Jordan, S.J. vs. Lelah Davis	261-300-332
1019	Jones, S.F. vs. M.F. McKennon, et al.,	340-356
583	Keith, Frank vs. United States.	1-137
820	Keith, Joe M. vs. Territory	2-104
850	Kirtley, Benj. L. vs. May Dykes	87-151-156-183-206-249-267- 268-313-353
914	Kidd, James W. vs. Territory	198-249
962	Kirk, Taylor vs. Territory	232-234-256-257
966	Kingfisher, vs. Guthrie National Bank	300-305-308
979	Keagy, M.B. vs. Wellington National Bank	301-307
975	Koller, J.H. vs. E.J. Richards	307
970	Kramer, P.G. vs. John Ewing	311-328

480	Lee, J.M. vs. A. Mehew et al.,	3-42
587	Lucas, James, et al., vs. C.R.Brakefield	3-54
738	Lowenstein, Isaac, vs. M.E.Young	7-64
743	Leader Pt'g Co., vs. Rob't A. Lowry, et al.,	8-35-175
757	Lookabaugh, J. G. vs. Frank K. Bell	9-80-87-207
722	Lawson, Calvin vs. Territory	13-54-153
842	Lincoln, Perry D. vs. Territory	92-140
894	Long Bell Lumber Co., vs. H.B.Martin	200-208-224-233-256
910	Light, J.W. vs. Geo. W. Conover	202
918	Leo, Sam vs. Herbert E. Ellis et al.,	202-214-240-258-295-353
942	Lasater, Ed. L. et al., vs. H.J.Green, Treas. et al.,	205-226-229-320-324-354
907	Lawton, J.W. vs. Territory	211-253
967	Long Bell Lumber Co., vs. H.B.Martin	262-269-300

699	Miller, Geo. W. vs. United States	1-104-264
804	Martin, Wm. G. vs. Territory	2-56
692	Moore, S.A. vs. O.H. Davis	5-102-199-250-258
817	Martin, J.W., Co. Treas., et al., vs. Samuel Clay et al.,	11-47
717	Moore, A.B. vs. S.A. Akins, Sheriff, et al.,	12-33-34-136
644	Masters, H.C. et al., vs. Robert R. Teller	17-65
822	Morrow, Robert vs. Mary E. Smith	29-33-66-100
836	Monroe, J.B. et al., vs. T.C. Bottom & Co.,	82-100-153
858	Malignon, Francis D. vs. Territory	87-141
866	Mendenhall, W.J. vs. Byron E. Cagle	95-214-216-239-259-294-313
925	Maas, Louis, Guardian vs. W.H. Phillips	179-323
883	Morrison, A. & Co., vs. Farmers and Merchants Bank Cal.	200-244
959	Mulkey, Sam'l V. vs. H.V. Van Patten, Co. Treas.,	209-215
960	Mulkins, Wm. vs. United States	232-261-299-324
956	Meler, Frank vs. Daniel A. Hull	254
980	Mansur & Tibbets Impl. Co., vs. Geo. R. Willet,	301-331
963	Morford, Robert vs. Territory	304-326
667	Malone, John vs. Alexander Roberts	306
1003	Maas, Conrad vs. Territory	310
1025	Monroe, J.M. and J.W. Young vs. Earl Beebe	352
?		
612	McClure, W. vs. J.W. Johnson	3-39-99
726	McKennon, T.M., Adm'r, vs. Harry W. Pentecost, Rec'r	6-43
736	McFadyen, John A., et al., vs. H.C. Masters et al.,	7-23-44-178-321
821	McCormick Harvesting Machine Co., vs. Wm. H. Koch et al.,	12-31-148
916	McKennon, T. M. vs. Annie McKennon	183-213-231-302-306-345
877	McDonald, John H. vs. Michael Brady	200-214-246-259-294-352
931	McMaster, Frank, -Petition-	203-225
946	McCormick, W.H. vs. Thos. L. Bonfils	241
	McAtee, John L., Justice, Commission and Oath	294-297-298
968	McCool, Harry Plummer, -Habeas Corpus-	332

643	Norman, Town of, vs. H. J. Ince	4-79-150
704	Hoyes, Norman & Co., vs. Tootle, Wheeler & Motter et al.,	5-84-149
319	Mix, Halsell & Co., et al., vs. W. W. Underhill et al.,	42
857	Hemire, Joseph J. vs. Harry C. C. Stiles	83-102
938	Meice, S. P. vs. Territory	210-237
	Heeley, Nathan- Habeas Corpus-	254
719	Okla. CO., Board Com'rs, vs. Ed. L. Dunn	6
885	Oklahoma Sanitarium Co., vs. Thos. S. Galbraith	78
601	Outcalt, Geo. M. vs. Wm. Collier	135-181
	Overstreet, Sam'l L.-Memorial-	206-210-217-219

803 Parker, Roy vs. Territory	2-78-174
621 Price, Ben, et al., vs. Board com'rs Pawnee co.,	4-66
754 Poe, R.R. vs. Board com'rs Pawnee Co.,	9-29-49-62-77.
797 Petrie, J.E. vs. J.H.Coulter	10-80-216-333
798 Phillips, Wm. A. vs. Henry H. Keysaw et al.,	10-37-38-46
702 Pinson & Sunday vs. S.R.Prentise	33-48
691 Poulton, Will-Habeas Corpus-	38
663 Pappé, Richard vs. The American Fire Ins. Co. of Philadelphia,	55
837 Payne, Ransom, et al., vs. Long Bell Lumber co., et al.,	82-93-250-264
833 Parker, Abraham vs. Reed C. Crawford	83
117 Pains, Veeder D. vs. John Foster et al.	176-251-255-318-328
929 Perkins, W.P. vs. Territory	193-214-304-351
899 Perry, Water, Light & Ice co., vs. City of Perry	201-299
923 Phoenix Bridge Co., vs. J.G.Street	202-208-246
933 Pratt, W.S. vs. John A. Ratliff, Sheriff,	203-312
922 Pierce, W.L. vs. Elizabeth Engelkemeir	205-332
990 Parker, Geo. S. et al., vs. Liston Robertson et al.,	302-357

794 Roberts, Geo. vs. Territory	2-30-104
755 Roots, Mrs. Logan H. vs. Board Com'rs Pawnee County	9-30-49-62-77
841 Richie, Chan. vs. Territory	79-86-197-207-247
849 Rawlings, H. vs. John A. Hanley et al.,	82-85-98-182
936 Rector, Ralph vs. Territory	198-239
944 Richardson, F.A. et al., v. Elisha Penny	204-213-245-268-306-333
945 Richardson, F.A. et al., vs. Elisha Penny	204-213-245-258
930 Ragains, James G. vs. The Geiser M'g Co.	205-356
935 Richardson, F.A. et al., vs. Lena Fellner et al.,	226-253-261
664 Ranney-Alton Mercantile Co., vs. Hanes & Johnson	240
977 Rose, Sam vs. Durham, Treas.,	301-323
987 Rockwood, et al., vs. Estate of St. John	301-350
953 Romig, John et al., vs. Myrtle Gillett	309-320-339-347-356
955 Russell, R.H. vs. H.J. Green, Treas.	310-325-355
617 Reeves, John vs. Territory	329
952 Randolph, N. vs. John Hudson	332

816	Sullivan, W.H. vs. Territory	2-19-22-140
734	Scott, J.R., et al., vs. J.W. Myers	7-19-147
748	Shultz, H.H. vs. John Burrows, Sheriff, et al.,	8-64
752	Sutherland, Robert, vs. John H. Smith, et al.,	9-22-80-102
707	Stewart, Ralph vs. P.B. Harman	15
673	State Capital Pt'g Co., v. A.J. Arnold, et al.,	16-42
706	Sheriff, Emma H. vs. Watson H. Sheriff et al.,	17-55
807	Southgate, Geo. M. vs. E.M. Frier	32-105
832	Sinclair, Thos. C. vs. John Antle et al.,	87-102
865	Stallard, F.H. et al., v. Sylvester Knapp	96-251
648	Smith, B.F. vs. W.W. Spencer et al.,	136
892	School District No. 5 vs. School District No. 83	152-271-272-273-274
	Scothern, John W. Oath of Office-	190
837	Sims, W.C. vs. Black Dog	200-248-253
895	School District No. 1 Pawnee Co., vs. S.M. Hopkins, Auditor,	201-221-224
896	Sappington, Samuel H. vs. Wm. E. Cunningham	201
911	Stumpff, J.H. Jr., -Bankrupt-	202-249
924	Schewalter, A.H. et al., vs. Jacob Beard	202-351
893	Stovall, W.W., et al., vs. Virginia G. Adair, et al.,	211-220-245
934	Sanders, Spencer E. vs. C.R.I. & P.R.R. Co.,	225-230
	Speed, Horace, U.S. Attorney-Commission and Oath-	235-236
634	Smith, H.E., et al., vs. D.M. Phillips	243
606	Sweet, A.L., et al., vs. J.W. Boyd	263-265
978	Southern Kansas Ry. Co., et al., vs. Oklahoma City et al.,	299-312
976	Streight, et al., vs. Durham, Trans.,	301-322
1022	Swan, H.V. & W.T. Thorne vs. Peter Wilderson et al.,	352-357-358-359-360-312-363-364

544	Territory of Okla. vs. Andrew Cooper, et al.,	2-15-78-128-299-305-312-331
737	Territory ex rel W.R.Taylor, Co. Att'y vs. Richard Caffrey	3-44-68-339
805	Territory ex rel W.W. Carter vs. Thomas Doran, et al.,	3
689	Tryon, J.P. vs. Hockaday, Harmon & Roe, et al.,	5
705	Thompson, Jacob Z. vs. W.L. Russell	5-15
759	Ten Cate, John vs. Noah Fansler	9-36-104
810	Ten Cate, John vs. M.E. Sharp	32-36-65-102
824	Trulock, M.B. et al., vs. J.R. Blair	32-103-181
831	Turner, John et al., vs. S.B. Comer	81-83
860	Theis, Geo., Jr., vs. Board Com'rs Washita County	84-95-223-238-259
874	Territory ex rel Ridings vs. Board Com'rs Grant County	86-90-107-263
884	Territory ex rel Jones vs. S.H. Hopkins	87-92-113-116-120-124-175
	Territory vs. Clyde Mattox - Application for change of Judge-	138
391	Territory ex rel Cunningham, Attorney General vs. G.W. Cooper et al.,	193-215
900	Territory ex rel Cunningham, Attorney General vs. James Brown, Co. Clk.,	199-279-285
901	Territory ex rel Cunningham, Attorney General vs. Fred C. Tracy,	199-285-293
879	Tibbits, L.A. et al., vs. H.A. Miller	200-247
920	Territory vs. T.M. Richardson, Jr.,	210-248
921	Territory vs. T.M. Richardson, Jr.,	210-331
965	Territory ex rel Taylor vs. School District 83	307-308
939	Thompson, Treas., vs. Territory	308-345
744	Territory ex rel Cunningham vs. Richard F. Caffrey	321-335-338
1031	Territory ex rel Joseph H. Strain et al., vs. C.M. Barnes, Governor,	370-372-373

986 Utsler, C.B. vs. Territory of Oklahoma

304-349

725	Vowell, W.T. vs. Elizabeth Taylor, et al.,	7-90-137-131
765	Vandervoort, Chas. E. vs. Board Com'rs Pawnee County	23-42-91
766	Vandervoort, Chas. E. vs. Board Com'rs Pawnee County	23-50-91
767	Vandervoort, Chas. E. vs. Board Com'rs Pawnee County	23-50-91
768	Vandervoort, Chas. E. vs. Board Com'rs Pawnee County	23-50-91
769	Vandervoort, Chas. E. vs. Board Com'rs Pawnee County	26-51-91
950	Vesely et al., vs. Elizabeth Engelkenoir	308-330

792	Ward, Henry vs. Territory	2-31-55
619	Williamson, T., vs. The Oklahoma National Bank	3-39
756	Winebrenner, Robert L. vs. Edward C. Forney	9-80
799	Washita Co. vs. L.G. Beal	10
844	Walburn, John vs. Territory	79-147
806	Wheeler, Herbert W. vs. Board Com'rs Washita county	80-178
830	Wiggins, E.S., Treas., vs. A.T. & S.F. Ry. Co.	81-92-174
853	Wade, Richard H. vs. Edward F. Gould	82-138
833	Watts, Clark vs. First National Bank of El Reno	92-141
852	Winfield National Bank vs. Bettie McWilliams	95-216-238
456	Wallace, J.R., et al., vs. W.B. Bullen, et al.,	110-153
670	Wyman, W.F. vs. Virgil Herard	155-215
928	Walters, Chas. L. vs. John A. Ratliff	203-329
947	Wilson, J.A. vs. James M. McCornack	204-254-323
927	Wallace, J.J. vs. Town of Norman	204-209-224-239
912	Wilson, William vs. Territory	209-237
953	White, Ed. vs. Territory	299
973	Ward, Rosetta et al., vs. Board Com'rs Logan county	300-333
964	Wilson, Jane vs. Wallace Wood	310-322

750 Young, John vs. Territory

1-78-100-136

908 Yelton, Nimrod W. vs. Nannie E. Yelton

201-208-260

NATURALIZATION:

Edward Buzzi

328

John Salisbury

302

Ellen Williams

327

Edde L. Hillman

366

ORDER:

Fixing Term of Court Fourth District	37
Fixing Terms of Court First District	38
Fixing Terms of Court Second District	40
Fixing Terms of Court Third District	56
Special session of Supreme Court	57
Assigning Justice Irwin to Second District	62
Defining Fifth District	63
Fixing Terms of Court Second District	63
Fixing Terms of Court Third District	63
Fixing Terms of Court Fifth District	67
Assigning Justice Irwin to Second District	70
Appointment of Assistant to edit Okla. Report	71
Contract for printing Report	71-75
Rehearing of causes	98
Fixing Terms of Court in First District	105
Fixing Terms of Court in Second District	105
Fixing Terms of Court in Third District	105
Fixing Terms of Court in Fourth District	106
Fixing Terms of Court in Fifth District	106
Amendment of Rule for Oral Argument	106
Assignment of Justice Burwell to Fourth District	107
Assignment of Justice Burwell to Third District	107
Assignment of Justice Burwell to Second District	110
Special Term Court Lincoln County	144
Fixing Terms of Court Second and Fifth Districts	145
Changing Term Court in Pawnee County	154
Changing Term Court in Payne County	154
Assigning Justice Hainer to First District	156
Temporary Assignment of Justice Hainer to First District	156
Special Session Supreme court October 21, 1899	172
Fixing Term Court Custer County	172
Changing Term Court Noble County	176
Assigning Justice Burwell to Kay County	177
Assigning Chief Justice Burford to Oklahoma County	177
Assigning Justice Irwin to Garfield County	179
Assigning Justice McAtee to Kingfisher county	180
Assigning Justice McAtee to Canadian County	180
Assigning Justice Irwin to Grant County	180
Fixing Term Court for Greer County	184
Fixing Term Court First District	184
Assigning Chief Justice Burford to Pawhuska	187
Assigning Justice Irwin to Special Term Oklahoma County	187

ORDERS:

Assigning Justice Hainer to Woodward County	187
Assigning Justice Irwin to try cause of Murchison & Hamilton	189
Special Session Supreme Court	190
Appointment of U.S. Attorney	190
Assignment of Justice Hainer to try Scroggins & Pruden cases	192
Assignment of Justice Irwin to try Dykes case	193
Assignment of Justice McAtee to try Kirk case	193
Assignment Chief Justice Burford to Noble County	194
Special Session Washita County Court	209
Fixing Term Court Second District	225
Special Term Court Kingfisher County	226
Pay Court Crier	227-229
Fixing Terms Court Fourth District	227
Fixing Terms Court Fifth District	227
Fixing Terms Court Third District	229
Special Term Court Oklahoma County	230
Amendment Rules 14 and 19	230
Approving Marshal's Account	241-243
Changing Terms Court Fourth District	252
Fixing Terms Court Garfield County	255
Pay Court Crier	256
Additional Supreme Court Rules	257
Assigning Chief Justice Burford to Woods County	264
Assigning Justice Burwell to Lincoln County	267
Assigning Chief Justice to Oklahoma County	267
Assigning Justice Irwin to Garfield County	268
Assigning Justice Hainer to Garfield County	269
Assigning Justice Burwell to Woods County	269
Changing Terms Court First District	270
Appointment of Assistant to edit Oklahoma Reports	275-279
Changing Terms Court Fifth District	296
Assigning Justice Burwell to Kay and Noble Counties	296
Assigning Justice Hainer to Oklahoma county	296
Pay Court Crier	297
Fixing Fall Terms First District	313
Fixing Fall Terms Second District	313
Fixing Fall Terms Fourth District	314
Fixing Fall Terms Fifth District	314
Transferring Roger Mills County from Second to Fifth District	315
Transferring Cleveland county to Second District	315
Assigning Chief Justice Burford to Noble County	315
Assigning Justice McAtee to Washita County	315

ORDERS:

Assigning Justice Hainer to Logan county	316
Assigning Justice Burwell to Lincoln County	316
Assigning Justice Burwell to Cleveland County	316
Assigning Justice Irwin to Dewey County	317
Assigning Justice Irwin to Grant County	317
Assigning Justice Irwin to Garfield County	317
Assigning Justice Hainer to Second District	318
Assigning Chief Justice Burford to Cleveland County	320
Fixing Terms court Third District	330
Assigning Justice Hainer to Third District	334
Assigning Justice Hainer to First District	334
Fixing Terms Court Fifth District	348
Assigning Justice Burwell to second District	344
Assigning Chief Justice Burford to Fourth District	344
Changing Term Logan county Court	357
Special session Supreme Court, October 20, 1900	365
Assigning Chief Justice Burford to Pottawatomie County	365
Fixing Term Court Dewey County	367
Changing Term Court Woods County	367
Changing Term Court Kingfisher County	368
Fixing Term Court Washita County	368
Changing Term Court Canadian County	369
Assigning Justice Irwin to Logan County	374
Assigning Chief Justice Burford to Canadian County	374

ATTORNEYS, Admission of

Chas. I. Scott	1
Geo. E. Black	31
W. H. Grigsby	31
P. T. Tyler	32
Thos. J. Womack	60
W. H. Coffield	60
G. W. P. Brown	60
Daniel W. Lewis	60
I. H. Lockabaugh	77
W. C. Tetrick	77
D. S. Dill	77
H. I. Wasson	77
Henry R. Berry	77
Marshall Fulton	98
W. J. Jackson	98
Chas. Thos. Burnett	134
W. C. Wheeler	143
Henry Hudson	152
Thos. H. Swanson	152
Sherman Duxton	152
D. C. Jarvis	152
Will C. Campbell	174
Julius C. Newby	174
Henry S. Johnston	178
Austin J. Ritterhouse	178
Frank L. Ray	217
J. F. King	220
J. D. F. Jennings	228
Vene Bloomer	232
Frank B. Burford	302
Guy Graham	303
G. E. Smith	311
Geo. M. Green	312
Geo. W. Martin	346
Geo. P. Rush	347
J. L. Francis	356
D. R. Moser	356
D. E. Duke	356

UNITED STATES OF AMERICA;

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Third day of January, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the January 1899 term of said court, pursuant to law, this being the First Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices John L. McAtee, John C. Tarsney, Bayard T. Hainer and Benj. F. Burwell; Benj. F. Hegler, Clerk; S. L. Overstreet, U.S. Attorney; C. H. Thompson, U.S. Marshal, and John C. Orner, Court Crier.

Public Proclamation having been duly made by the crier of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

In re,

Admission of Charles I. Scott to practice,

Comes now Edgar W. Jones, Attorney, of this court, and moves the admission of Charles I. Scott, a member of the bar of the District Court of Garfield county, to practice in the Supreme Court.

And the court having considered said application, and being satisfied that said applicant is a person skilled in the law, and of good moral character, the attorney's oath is administered to him, and it is

Ordered by the court that Charles I. Scott be and he is hereby admitted to practice in the Supreme Court of the Territory, and the inferior courts thereof.

#583,

Frank Keith,
Appellant,
vs.

United States of America,
Appellee.

Ordered by the court that this cause be now submitted on briefs.

#69,

George W. Miller,
Appellant,
vs.

United States of America,
Appellee.

Ordered by the court that this cause be submitted for oral argument January 12.

#678,

Hubert O. Bell,
Appellant,
vs.

Territory of Oklahoma
ex rel Ida L. Dillman,
Appellee.

Ordered by the court that this cause be now submitted on briefs.

#708,

H. H. Hyde,
Appellant,
vs.

Territory of Oklahoma,
Appellee.

Ordered by the court that this cause be now taken on motion to amend case-made.

#760,

John Young,
Appellant,
vs.

Territory of Oklahoma, Appellee.

Ordered by the court that this cause be continued for the term by agreement of parties.

SUPREME COURT, JANUARY, 1892, TERM.--JANUARY 3, FIRST JUDICIAL DAY.

#782,
Henry Ward,
Appellant,
vs
Territory of Oklahoma,
Appellee.

Ordered by the court that this cause be passed for the present.

#794,
George Roberts,
Appellant,
vs
Territory of Oklahoma,
Appellee.

Ordered by the court that this cause be passed for the present.

#802,
Levi Feberstein,
Appellant,
vs
Territory of Oklahoma,
Appellee.

Ordered by the court that this cause be set for oral argument January 12.

#803,
Roy Parker,
Appellant,
vs
Territory of Oklahoma,
Appellee.

Ordered by the court that this cause be continued for the term.

#804,
William B. Martin,
Appellant,
vs.
Territory of Oklahoma,
Appellee.

Ordered by the court that this cause be now taken on briefs.

#810,
T. M. Sullivan,
Appellant,
vs
Territory of Oklahoma,
Appellee.

Ordered by the court that this cause be set for oral argument January 12.

#820,
Joe M. Keith,
Appellant,
vs.
Territory of Oklahoma,
Appellee.

Ordered by the court that this cause be now taken on briefs.

#844,
Territory of Oklahoma,
Appellant,
vs.
Andrew Cooper, et al,
Appellee.

Ordered by the court that this cause be now taken on motion to dismiss.

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 3, FIRST JUDICIAL DAY.

#757,
Territory of Oklahoma
ex rel W. A. Taylor,
County Attorney,
Appellant,
vs.

Richard E. Caffrey,
County Clerk of
Oklahoma County, O.T.
Appellee.

Ordered by the court that this cause be now submitted on briefs.

#744,
George H. Coulson,
Clerk Woods Co., O.T.
Appellant,
vs.

Territory of Oklahoma ex rel
Jesse J. Dunn, County Att'y
Woods County, O.T.

Ordered by the court that this cause be now taken on the motion to dismiss.

#805,
Territory of Oklahoma
ex rel W. W. Carter,
Appellant,
vs.

Thomas Doran, et al,
Appellees,

Ordered by the court that this cause be now stricken from the docket, the peremptory writ herein having been complied with.

#480,
J. N. Lee, Treasurer, et al,
Appellants,
vs.

A. Fehew, et al,
Appellees.

Ordered by the court that this cause be now taken on briefs.

#547,
James Lucas, et al,
Appellants,
vs.

C. E. Brakefield,
Appellee.

Ordered by the court that this cause be now taken on briefs.

#612,
Wm. McCallre,
Appellant,
vs.

J. W. Johnson,
Appellee.

Ordered by the court that this cause be now taken on petition for rehearing.

#619,
T. Williamson,
Appellant,
vs.

The Oklahoma National Bank,
Appellee.

Ordered by the court that this cause be now taken on petition for rehearing.

#621,

Ben Price, et al,
Appellants,
vs.

Board County Commissioners
Pawnee County,
Appellee.

Ordered by the court that this cause be now submitted on plaintiffs' briefs, with ten days to defendants to file briefs.

#622,

J. P. Johnson, et al,
Appellants,
vs.

Board County Commissioners
Pawnee County,
Appellee.

Ordered by the court that this cause be now submitted on plaintiffs' briefs, with ten days to defendant to file briefs.

#623,

John W. Florer, et al,
Appellants,
vs.

Board County Commissioners
Pawnee County,
Appellee.

Ordered by the court that this cause be now submitted on plaintiffs' briefs, with ten days to defendant to file briefs.

#643,

The Town of Norman,
Appellant,
vs.

W. J. Ince,
Appellee.

Ordered by the court that this cause be continued for the term, by agreement of parties filed.

#665,

T. E. Haddleston,
Appellant,
vs.

Noble county,
Appellee.

Ordered by the court that this cause be continued for the term, by agreement of parties.

#666,

O. C. Gutter,
Appellant,
vs.

Territory of Oklahoma,
Appellee.

Ordered by the court that this cause be continued for the term, as per stipulation filed.

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 3, FIRST JUDICIAL DAY.

#689,

J. P. Lyon,
Appellant,
vs.Hockaday, Harmon & Roe, et al
Appellees.

Comes now counsel for plaintiff in error and in open court asks that this cause be dismissed at plaintiff's costs.

It is therefore ordered and adjudged by the court that this cause be and the same is hereby dismissed at the cost of plaintiff.

#692,

S. A. Moore,
Appellant,
vs.O. H. Davis,
Appellee.

Ordered by the court that this cause now be taken on the motion to dismiss.

#700,

Colon Parkett, et al
Appellants,
vs.Lehman-Figginson
Grocery Company,
Appellee.

Ordered by the court that this cause now be taken on briefs.

#703,

J. R. Cox,
Appellant,
vs.Gille Hardware & Iron Company,
Appellee.

Ordered by the court that this cause now be taken on plaintiff's briefs.

#704,

Woyes, Norman & Co.,
Appellant,
vs.Tootle, Wheeler & Potter, et al,
Appellees.

Ordered by the court that this cause now be taken on the motion to dismiss and other motions, and that five days be allowed plaintiff in error to file arguments, and five days thereafter to defendant in error to reply.

#705,

Jacob B. Thompson,
Appellant,
vs.W. L. Russell,
Appellee.

Ordered by the court that this cause now be dismissed for failure to file briefs.

#709,

John B. House,
Appellant,
vs.

B. A. Swartzel, Appellee.

Ordered by the court that this cause now be dismissed on motion to dismiss, and briefs.

S U P R E M E C O U R T, J A N U A R Y, 1 9 9 9, T E R M. -- J A N U A R Y 3, F I R S T J U D I C I A L D A Y.

#719,

Board of County Commissioners
of Oklahoma County,
Appellant,

vs.

Ed. L. Funn,
Appellee.

Ordered by the court that this cause now be dismissed at cost of appellant.

#720,

J. W. Davis who sues for
himself and others,
Appellants,

vs.

Robert V. Higgins,
Appellee.

Ordered by the court that this cause be now dismissed for failure to file briefs.

#721,

W. E. Goddall,
Appellant,

vs.

J. P. Cunningham, Treasurer
Garfield County,
Appellee.

Ordered by the court that this cause be now dismissed at the cost of plaintiff in error.

#726,

T. F. McKennon, Administrator,
Appellant,

vs.

Harry W. Pentecost, Receiver,
Appellee.

Ordered by the court that this cause be now taken on briefs, with five days allowed to defendant to file his briefs.

#731,

Jesse J. Fowles,
Appellant,

vs.

William Fushman,
Appellee.

Ordered by the court that this cause be now taken on motion to continue.

#732,

Ambrose F. Jackson,
Appellant,

vs.

Frederick B. Jewey,
Appellee.

Ordered by the court that this cause be now taken on motion to continue.

#733,

Ambrose F. Jackson,
Appellant,

vs.

The Jackson Plow Mfg.
Company, et al,
Appellee.

Ordered by the court that this cause be now taken on motion to continue.

#725,

W. T. Vowell,
vs. Appellant,

Elizabeth Taylor, et al,
Appellees.

Ordered by the court that this cause be now submitted on briefs.

#734,

J. R. Scott, et al,
vs. Appellant,

J. W. Meyers,
Appellee.

Ordered by the court that this cause be now taken on motion to dismiss, and briefs.

#736,

John A. McFadyen, et al,
vs. Appellant,

H. C. Masters, Sheriff
of Kay County,
Appellee.

Ordered by the court that five days be allowed defendant in error to file motion or briefs.

#738,

Isaac Lowenstein,
vs. Appellant,

M. E. Young,
Appellee.

Ordered by the court that this cause be now taken on plaintiff's briefs.

#739,

C. L. Gibson,
vs. Appellant,

Weller Brothers,
Appellees.

Ordered by the court that this cause be now taken on motion to dismiss, and briefs; the motion to be considered with the record.

#740,

John B. Glover,
vs. Appellant,

Benj. F. Swartz,
Appellee.

Ordered by the court that this cause be set for oral argument January 12. Defendant in open court asks leave to file motion to dismiss on jurisdictional grounds, and is directed by the court to file the same and serve on opposite party.

#742,

E. M. Fant,
vs. Appellant,

J. L. Campbell, et al,
Appellees.

Ordered by the court that this cause be now taken on the motion to dismiss, and two days be allowed for showing.

SUPREME COURT, JANUARY, 1939, TERM.--JANUARY 3, FIRST JUDICIAL DAY.

#809,

Fuller & Fuller Company,
Appellant,
vs.

George P. Johnston,
Appellee.

Ordered by the court that this cause now be taken on motion to dismiss and briefs.

#743,

Leader Printing Company,
Appellant,
vs.

Robert A. Lowry, et al,
Appellee.

Ordered by the court that this cause be continued for oral argument to January 12.

#745,

Henry W. King & Co.
Appellants,
vs.

Chas. H. DeFord,
Appellee.

Ordered by the court that this cause now be taken on the motion to dismiss. And the court allows suggestions in opposition to said motion to be filed, the defendant to serve his application to file brief on opposite party.

#746,

Richard F. Caffrey, County
Clerk, Oklahoma County,
Appellant,
vs.

H. Overholser,
Appellee.

Ordered by the court that this cause now be taken on record and briefs.

#748,

H. H. Shultz,
Appellant,
vs.

John Barrows, Sheriff,
Oklahoma County, et al,
Appellees.

Ordered by the court that this cause now be taken on briefs.

#750,

Henry Betts, et al,
Appellants,
vs.

Milton Mills,
Appellee.

Ordered by the court that this cause now be taken on record and briefs.

#751,

Mary C. Hardwick, et al,
Appellants,
vs.

C. T. Atkinson,
Appellee.

Ordered by the court that this cause be continued as per stipulation filed.

#752, Robert Sutherland, Assignee,
Appellant,
vs.

John H. Smith, et al,
Appellees.

Ordered by the court that this cause now be taken on plaintiff in error's briefs.

#753, M. H. Johnson,
Appellant,
vs.

Board County Commissioners
Pawnee County,
Appellee.

Ordered by the court that this cause now be taken on plaintiff in error's briefs.

#754, R. R. Roe,
Appellant,
vs.

Board County Commissioners
Pawnee County,
Appellee.

Ordered by the court that this cause now be taken on plaintiff in error's briefs.

#755, Mrs. Logan H. Roots,
Appellant,
vs.

Board County Commissioners
Pawnee County,
Appellee.

Ordered by the court that this cause now be taken on plaintiff in error's briefs.

#756, Robert L. Winebrenner,
Appellant,
vs.

Edward C. Forney,
Appellee.

Ordered by the court that this cause now be continued for service.

#757, J. G. Lookabaugh,
Appellant,
vs.

Frank K. Bell,
Appellee.

Ordered by the court that this cause be continued as per stipulation on file.

#759, John Ten Cate,
Appellant,
vs.

Noah Fansler,
Appellee.

ordered by the court that this cause be set for oral argument January 13.

SUPREME COURT, JANUARY, 1899, TERM--JANUARY 3, FIRST JUDICIAL DAY.

#761,
J. R. Ingram,
Appellant,
vs.

Mary A Bourbonnais,
Appellee.

Ordered by the court that this cause be now taken on the motion to dismiss.

#764,
Caroline Hess,
Appellant,
vs.

W. W. Trigg, et al,
Appellees.

Ordered by the court that this cause be set for oral argument January 13.

#796,
N. B. Easton,
Appellant,
vs.

Henry Broadwell,
Appellee.

Ordered by the court that this cause be now taken on briefs.

#797,
J. E. Petrie,
Appellant,
vs.

J. N. Coulter, Receiver,
Appellee.

Ordered by the court that this cause be continued as per stipulation to be filed.

#798,
William A. Phillips,
Appellant,

Henry H. [redacted], et al,
Appellee.

Ordered by the court that this cause be set for oral argument January 13.

#799,
Washita County,
Appellant,
vs.

L. G. Beal,
Appellee.

Ordered by the court that this cause be now dismissed, for failure to file briefs.

#801,
J. T. Godfrey, Sheriff, et al,
Appellants,
vs.

Wright & Claunch,
Appellees.

Ordered by the court that this cause be now taken on briefs.

#808,
Lewis Humphrey, et al,
Appellants,
vs.

Maggie Hunt,
Appellee.

Ordered by the court that this cause be taken on motion to dismiss and file briefs.

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 3, FIRST JUDICIAL DAY.

#811, A. N. Cramer, et al,
Appellants,
vs.

Board County Commissioners
Beaver County,
Appellee.

Ordered by the court that this cause be continued as per stipulation filed.

#812, H. M. Brewer, et al,
Appellants,
vs.

J. M. Asher,
Appellee.

Ordered by the court that this cause be now taken on briefs.

#814, Ed. Bridges,
Appellant,
vs.

D. R. Thomas,
Appellee.

Ordered by the court that this cause be set for oral argument January 13, and taken on briefs.

#815, Alfred D. Harris,
Appellant,
vs.

Kyle McClung,
Appellee.

Ordered by the court that ten days be allowed to defendant to file briefs, and this cause submitted on briefs.

#817, J. W. Martin, Co.,
Treasurer, et al,
Appellants,
vs.

Samuel Clay, et al,
Appellees.

Ordered by the court that this cause be now taken on briefs.

#818, J. S. Hall,
Appellant,
vs.

Oren A. Powell, et al,
Appellees.

Ordered by the court that this cause be now taken on briefs.

#819, Rollin M. Hockaday, et al,
Appellants,
vs.

M. F. Jones,
Appellee.

Ordered by the court that this cause be now taken on briefs.

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 3, FIRST JUDICIAL DAY.

#821,
McCormick Harvesting
Machine Company,
Appellant,
vs.

William H. Koch, et al,
Appellees.

Ordered by the court that this cause be now taken on briefs.

#823,
John B. Barnett,
Appellant,
vs.

Martha J. Ruyle,
Appellee.

Ordered by the court that this cause be set for oral argument January 13.

#717,
A. B. Moore,
Appellant,
vs.

S. A. Akins, Sheriff,
et al,
Appellees.

Ordered by the court that Oral argument in this cause be changed to January 11, at the foot of docket, for said day.

Ordered that court now adjourn to 10 o'clock a.m., Wednesday, January 4.

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 4, 2nd JUDICIAL DAY.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Fourth day of January, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the January 1899 term of said court, pursuant to law, this being the Second judicial day of said term; Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices John L. McAtee, John C. Tarsney, Bayard T. Hainer, and Benj. F. Burwell; Benj. F. Hegler, Clerk; S. L. Overstreet, U.S. Attorney; C. H. Thompson, U. S. Marshal, and John C. Orner, Court Crier.

Public Proclamation having been duly made by the crier of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#668,
O. S. Cutter,
Appellant,
vs.

Territory of Oklahoma,
Appellee.

Ordered by the court that the Attorney General be granted 10 days to make showing, and to correct the record herein, and the cause is submitted on briefs.

#683,
Henry C. Ellis,
Appellant,
vs.

Territory of Oklahoma,
Appellee.

Ordered by the court that this cause be now taken on briefs.

#722,
Calvin Lawson,
Appellant,
vs.

Territory of Oklahoma,
Appellee.

And now this cause comes on for oral argument, and is argued by C. C. Blake, counsel for plaintiff in error; and 10 days are allowed plaintiff to file briefs.

Ordered by the court that a recess be taken until 2 o'clock p.m. this day.

AFTERNOON SESSION.

Court convened at 2 o'clock p.m. pursuant to recess. Officers present same as at morning session.

#762,
James Hughes,
Appellant,
vs.

Territory of Oklahoma,
Appellee.

And now this cause comes on for oral argument, and is argued by C. C. Blake, counsel for plaintiff; and 10 days are allowed to the Attorney General to file briefs, and cause submitted.

#763,
Fred Horn,
Appellant,
vs.

Territory of Oklahoma,
Appellee.

Now this cause comes on for oral argument, and is argued by C. C. Blake of counsel for plaintiff in error. And ten days are allowed to Attorney General to file briefs and cause submitted.

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 4, 2nd JUDICIAL DAY.

#733,

Ambrose F. Jackson,
Appellant,
vs.

The Jackson Plow Mfg. Co., et al,
Appellees.

And now this cause comes on for hearing by the court upon the application of the plaintiff for a continuance herein, and the court having considered said application finds that the same should be denied.

It is therefore ordered and adjudged by the court that the application for a continuance in this cause be, and the same is hereby denied.

Ordered that court now adjourn until 10 o'clock to-morrow morning January 5th.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Fifth day of January, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the January 1899 term of said court, pursuant to law, this being the Third judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices John L. McAtee, John C. Taraney, Bayard T. Hainer and Benj. F. Burwell; Benj. F. Hegler, Clerk; S. L. Overstreet, U.S. Attorney; C. H. Thompson, U.S. Marshal, and John C. Orner, Court Crier.

Public Proclamation having been duly made by the crier of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#544,

Territory of Oklahoma,
Appellant,
vs.

Andrew Cooper,
O. A. Mitscher,
T. W. Williamson,
John Cooper,
Appellees.

And now this cause comes on for hearing by the court on the motion to dismiss the same,

And the court having considered said motion, and being fully advised in the premises finds that the same should be overruled.

It is therefore ordered by the court that the motion to dismiss this action be and the same is hereby overruled. Sixty days are allowed defendant in error to file briefs, and cause is continued till next term.

#657,

Choctaw, Oklahoma &
Gulf Ry. Co.
Appellant,
vs.

Andrew W. Scott,
Appellee.

And now this cause comes on for hearing by the court upon motion of appellant to dismiss the appeal herein at his cost.

It is therefore ordered and adjudged by the court that this cause be and the same is hereby dismissed at cost of appellant.

#705,

Jacob Z. Thompson,
Appellant,
vs.

W. L. Russell,
Appellee.

And now the court sustains the motion to dismiss this action and leave to file brief is refused.

#709,

John B. House,
Appellant,
vs.

L. A. Swartzel, et al,
Appellees.

And now this cause comes on for hearing by the court upon the motion to attach case-made to petition in error, and the motion to dismiss appeal herein,

And the court having duly considered said motion, and being fully advised in the premises finds that

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 5, 3rd JUDICIAL DAY.

said motion to attach case-made to petition in error should be overruled; and that the motion to dismiss this appeal should be sustained. No case-made having been filed within 30 days, in the Supreme Court, and attached to petition in error, and no order having been made by the trial court at the time of dissolving the attachment, fixing the time for filing petition in error in the Supreme Court.

It is therefore now ordered and adjudged by the court that the motion to attach case-made herein be overruled, and the motion to dismiss this appeal be sustained.

#707,
Ralph Stewart,
Appellant,
vs.

P. B. Hamman,
Appellee.

And now this cause comes on for hearing by the court upon the motion to dismiss the appeal herein, and the court finds that this cause should be dismissed for want of jurisdiction, as no appeal lies to this court from the Probate Court when acting as a court of Justice of the Peace.

It is therefore ordered and adjudged by the court that this appeal be, and the same is hereby dismissed.

#735,
Ambrose P. Jackson,
Appellant,
vs.

The Jackson Plow Mfg Co., et al,
Appellees.

And now this cause comes on for hearing by the court upon the application for a continuance thereof; and the court having duly considered the same and being fully advised in the premises finds that said application should be denied.

It is therefore ordered and adjudged by the court that the application for a continuance in this cause be denied and the cause taken on motions.

#673,
The State Capital Printing Company,
Appellant,
vs.

A. J. Arnold, T. P. Neville, et al,
Appellees.

Come now counsel for parties and waive oral argument in this case, and it is taken by the court on briefs.

#675,
The Board of Education of the
City of El Reno,
Appellant,
vs.

Joseph Hobbs, (infant) by
W. E. English,
Appellee.

Ordered by the court that this cause be now taken on briefs.

#682,
The Board of County Commissioners
of the County of B.
Appellant,
vs.

F. E. Gillett,
Appellee.

Ordered by the court that this cause be now taken on briefs.

#706,

Emma M. Sheriff,
Appellant,
vs.

Watson E. Sheriff and
Mary A. Sheriff,
Appellees.

Ordered by the court that this cause be now taken on briefs.

#741,

Jonas H. Cook, et al,
Appellants,
vs.

Emma D. McCord, et al,
Appellees.

Ordered by the court that this cause be now continued for the term by agreement, and counsel for defendant in error now withdraw their motion to dismiss herein.

#718,

John Craggs and
H. E. Craggs,
Appellants,
vs.

Elijah Earls,
Appellee.

ordered by the court that this cause be now submitted on plaintiffs' briefs.

#644,

H. C. Masters, Sheriff
of Kay County,
Appellant,
vs.

Robert R. Teller,
Appellee.

Comes now C. G. Horner of counsel for plaintiff in error and makes oral argument in this cause, and the same is submitted.

Ordered that court now adjourn until 10 o'clock a.m., Friday January 6, 1899.

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 6, 4th JUDICIAL DAY.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Sixth day of January, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the January 1899 term of said court, pursuant to law, this being the Fourth judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices John L. McAtee, John C. Tarasay, Bayard T. Hainer and Benj. F. Burwell; Benj. F. Hegler, Clerk; S. L. Overstreet, U.S. Attorney, C. H. Thompson, U. S. Marshal, and John C. Orner, Court Crier.

Public Proclamation having been duly made by the crier of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#724,
The Consolidated Steel
and Wire Company, et al,
Appellants,
vs.

Burnham, Hanna Munger & Co.
Appellee.

Come now George S. Green of counsel for defendant in error herein and makes oral argument in this cause, and the same is submitted.

#718,
John Craggs and
H. E. Craggs,
Appellants,
vs.

Elijah Earls,
Appellee.

Ordered by the court that this cause be now submitted on plaintiffs briefs.

#731,
Jesse J. Bowles,
Appellant,
vs.

William Bushman,
Appellee.

And now this cause comes on for hearing upon the application for a continuance herein; and the court having duly considered said application and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the court that the application for a continuance of this cause be and the same is hereby denied.

#732,
Ambrose F. Jackson,
Appellant,
vs.

Frederick B. Dewey,
Appellee.

And now this cause comes on for hearing by the court upon the application for a continuance thereof, and the motion to dismiss; and the court having considered said application and motion, finds that a continuance of this cause should be denied, and the motion to dismiss same, sustained.

It is therefore ordered and adjudged by the court that the application for a continuance of this cause be and the same is hereby denied.

It is further ordered that the motion to dismiss this cause be and the same is hereby sustained.

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 6, 4th JUDICIAL DAY.

#734, J. R. Scott, Duvall Jackson, et al,
Appellants,
vs.

J. W. Meyers,
Appellee.

Ordered by the court that the motion to dismiss the appeal herein be, and the same is hereby overruled.

#816, W. H. Sullivan,
Appellant,
vs.

The Territory,
Appellee.

Ordered by the court that this cause be set for oral argument January 7.

Ordered that court now adjourn until 10 o'clock to-morrow morning.

S U P R E M E C O U R T, J A N U A R Y, 1899, T E R M, -- J A N U A R Y 7, 5th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on the Seventh day of January, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the January 1899 term of said court, pursuant to law, this being the Fifth judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices John L. McAtee, John C. Tarsney, Bayard T. Hainer and Banj. F. Burwell; Benj. F. Hegler, Clerk; S. L. Overstreet, U. S. Attorney; C. H. Thompson, U. S. Marshal, and John C. Orner, Court Crier.

Public Proclamation having been duly made by the crier of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#727,
Burton S. Barnes, et al,
Appellants,
vs.

J. W. Lynch, et al,
Appellees.

And now this cause comes on for consideration by the court upon the motion to dismiss the appeal herein.

And the court having considered said motion and being fully advised in the premises finds that it should be overruled.

It is therefore ordered and adjudged by the court that the motion to dismiss the appeal in this cause be, and the same is hereby overruled.

Come now James B. Diggs and George S. Green of counsel for plaintiff in error, and Pollock & Lafferty and J. W. Quick of counsel for defendants in error, and oral argument is by them made in this cause, and the same is submitted.

#739,
C. L. Gibson,
Appellant,
vs.
Weller Brothers,
Appellee.

And now the court sustains the motion to dismiss the appeal herein; the appeal not being in time.

#742,
D. R. Fant,
Appellant,
vs.

J. Y. Campbell, et al,
Appellees.

Ordered by the court that this cause now be continued to next term by consent of parties, in open court.

#745,
 William C. Browning, Edward W. Dewey
 and Francis King, the sole surviving
 partners composing the firm of
 Henry W. King & Co.; Kate Tootle
 William W. Wheeler, Joshua Motter
 and Francis S. Dameron, partners
 under the firm name of Tootle,
 Wheeler & Motter; the Central National
 Bank of Topeka, Kansas, a National
 banking corporation; the Bank of
 Topeka, a corporation organized under
 the laws of the State of Kansas, and
 A. H. Vance,

Appellants,

vs.

Charles H. DeFord,

Appellee.

Now on this 7th day of January, 1899, said cause coming on for decision on the motion of the defendant in error to dismiss the same, and the court being duly advised in the premises, overrules said motion, to which ruling of the court said defendant in error then and there excepted.

Jno. H. Burford,

Chief Justice.

#749,
 George H. Coulson, Clerk
 Woods County,
 Appellant,

vs.

The Territory of Oklahoma
 ex rel Jesse J. Dunn, County
 Attorney Woods County,
 Appellee.

And now this cause comes on for consideration by the court upon the motion to dismiss the appeal herein,

And the court having considered said motion and being fully advised in the premises finds that the same should be overruled.

It is therefore ordered by the court that the motion to dismiss this action be and the same is hereby overruled.

#770,
 The Board of County Commissioners
 of D County, O.T.
 Appellant,

vs.

Joel R. Burrow,

Appellee.

And now this cause comes on for consideration by the court upon the motion to dismiss the appeal herein,

And the court having considered said motion and being fully advised in the premises finds that the same should be overruled.

It is therefore ordered by the court that the motion to dismiss this action be and the same is hereby overruled.

#708,
 H. H. Hyde,
 Appellant,

vs.

The Territory of Oklahoma,
 Appellee.

And now this cause comes on for hearing by the court upon the motion to supplement the case made herein,

And the court having duly considered said motion and being fully advised in the premises finds that

S U P R E M E C O U R T, J A N U A R Y, 1899, T E R M. -- J A N U A R Y 7, 5th J U D I C I A L D A Y.

same should be allowed, and a writ of certiorari ordered to issue.

It is therefore ordered and adjudged by the court that the motion to supplement case-made herein be hereby allowed and a writ of certiorari ordered to issue.

Opinion by Burford, C.J.

#761,
J. R. Ingram,
Appellant,
vs.

Mary A. Bourbonnais,
Appellee.

And now this cause comes on for hearing by the court upon the motion to dismiss the appeal herein, and the court having duly considered said motion, and being fully advised in the premises finds that plaintiff's briefs were filed out of time, and the appeal herein should be dismissed,

It is further ordered by the court that the appeal herein be and the same is now hereby dismissed at cost of appellant.

#752,
Robert Sutherland,
(as assignee)
Appellant,
vs.

John H. Smith, J. W. Browning,
J. J. Hackman, Susan B. Vawter,
and J. H. Havighorst,
Appellees.

Ordered by the court that counsel for defendant in error be permitted to file a motion on jurisdictional facts herein, and that he serve notice of same on opposing counsel.

#816,
W. H. Sullivan,
Appellant,
vs.

The Territory of
Oklahoma,
Appellee.

Comes now J. R. Keaton, counsel for plaintiff in error and makes oral argument in this cause, and the same is submitted.

#730,
William Casey and
Charles Casey,
Appellants,
vs.

Mack Mason,
Appellee.

And now oral argument in this cause is passed.

#758,
N. F. Frazier,
Appellant,
vs.

Edward Prince,
Appellee.

Come now W. H. Criley, counsel for plaintiff in error, and E. E. Blake, counsel for defendant in error, and this cause is by them orally argued to the court and submitted.

And it is ordered that defendant have until January 15 to file his briefs herein; reply briefs to be filed by January 20.

Ordered that court now adjourn to next Monday at 10 o'clock a.m. January 9th.

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 9, 6th JUDICIAL DAY.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on the Ninth day of January, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the January 1899 term of said court, pursuant to law, this being the Sixth judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices John L. McAtee, John C. Tarsney, Bayard T. Hainer and Benj. F. Burwell; Benj. F. Hegler, Clerk; S. L. Overstreet, U. S. Attorney; C. H. Thompson, U. S. Marshal, and John C. Orner, Court Crier.

Public Proclamation having been duly made by the crier of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#736,
John A. McFadyen and
Sarah Brown,
Appellants,
vs.

H. C. Masters, Sheriff
Kay County,
Appellee.

Ordered by the court that this cause be now submitted on briefs.

#765,
Charles E. Vandervoort,
Appellant,
vs.

Board of County Commissioners
of Pawnee County, O. T.
Appellee.

Ordered by the court that this cause now be taken on briefs, with five days to defendant to file briefs.

#766,
Charles E. Vandervoort,
Appellant,
vs.

Board of County Commissioners
of Pawnee County, O. T.
Appellee.

Ordered by the court that this cause now be taken on briefs, with five days to defendant to file briefs.

#767,
Charles E. Vandervoort,
Appellant,
vs.

Board of County Commissioners
of Pawnee County, O. T.

Ordered by the court that this cause now be taken on briefs, with five days to defendant to file briefs.

#768,
Charles E. Vandervoort,
Appellant,
vs.

Board of County Commissioners
of Pawnee County, O. T.
Appellee.

Ordered by the court that this cause now be taken on briefs, with five days to defendant to file briefs.

3

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 9, 6th JUDICIAL DAY.

#769,
Charles E. Vandervoort,
Appellant,
vs.

Board of County Commissioners
of Pawnee County, O.T.
Appellee.

Ordered by the court that this cause now be taken on briefs, with five days to defendant to file briefs.

#770,
The Board of County Commissioners
of D County, O.T.
Appellant,
vs.

Joel R. Burrow,
Appellee.

Comes now George P. Uhl of counsel for defendant in error and makes oral argument in this cause, and the same is submitted on argument and briefs, and it is ordered by the court that the cases numbered 771, The Board of County Commissioners of Custer County, O.T. vs. Joel R. Burrow; 781, The Board of County Commissioners of Washita County, O.T. vs. Joel R. Burrow; be considered with said case #770, and that they be taken together on said oral argument and briefs.

#772,
The Board of County Commissioners
of Custer County, O.T.
Appellant,
vs.

Robert G. Moon,
Appellee.

ordered by the court that this cause be taken on briefs.

#773,
The Board of County Commissioners
of Washita County, O.T.
Appellant,
vs.

F. M. Hubble,
Appellee.

Ordered by the court that this cause be taken on briefs.

#774,
The Board of County Commissioners
of D County, O.T.
Appellant,
vs.

F. H. Wright,
Appellee.

Ordered by the court that this cause be taken on briefs.

#775,
The Board of County Commissioners
of Washita County, O.T.
Appellant,
vs.

Gustavus DeLana,
Appellee.

Ordered by the court that this cause be taken on briefs.

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 9, 6th JUDICIAL DAY.

#776, The Board of County Commissioners
of Custer County, O.T.
Appellant,

vs.

Gustavus De Lana,
Appellee.

Ordered by the court that this cause be taken on briefs.

#777, The Board of County Commissioners
of Custer County, O.T.
Appellant,

vs.

George Theiss, Jr.
Appellee.

Ordered by the court that this cause be taken on briefs.

#778, The Board of County Commissioners
of Custer County, O.T.
Appellant,

vs.

H. H. Beatty,
Appellee.

Ordered by the court that this cause be taken on briefs.

Ordered that court adjourn to 9 o'clock^{a.m.} January 10, 1899.

S U P R E M E C O U R T, J A N U A R Y, 1899, T E R M.--J A N U A R Y 10, 7th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on the Tenth day of January, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the January 1899 term of said court, pursuant to law, this being the Seventh judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices John L. McAttee, (By deputy) John C. Tarsney, Bayard T. Hainer and Benj. F. Burwell; Benj. F. Hegler, Clerk; S. L. Overstreet, U. S. Attorney; C. H. Thompson, U. S. Marshal, and John C. Orner, Court Crier.

Public Proclamation having been duly made by the crier of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#780,
The Board of County Commissioners of
Roger Mills County, O.T.
Appellant,
vs.
Sat Rowden,
Appellee.

Ordered by the court that this cause be submitted on stipulation filed.

#784,
The Board of County Commissioners
of Washita County, O.T.
Appellant,
vs.
James E. Kelso,
Appellee.

Ordered by the court that this cause be submitted on stipulation filed.

#783,
The Board of County Commissioners
of Roger Mills County, O.T.
Appellant,
vs.
The Hall Lithographing Company,
Appellee.

Ordered by the court that this cause be now submitted on briefs by plaintiff in error, with ten days allowed defendant in error to file briefs.

#785,
The Board of County Commissioners
of Washita County, O.T.
Appellant,
vs.
Bank of Minco,
Appellee.

Ordered by the court that this cause be now submitted on briefs.

#788,
The Board of County Commissioners
of Day County, O.T.
Appellant,
vs.
F. M. Kubble,
Appellee.

Ordered by the court that defendant in error be given five days to file briefs herein.

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 10, 7th JUDICIAL DAY.

#789,
The Board of County Commissioners
of D County, O.T.
Appellant,
vs.

N. & W. Sauer,
Appellees.

Ordered by the court that this cause be now submitted on briefs.

#790,
The Board of County Commissioners
of Roger Mills County, O.T.
Appellant,
vs.

N. & W. Sauer,
Appellees.

Ordered by the court that this cause be now submitted on briefs.

#791,
Roy V. Hoffman and
William Blincoe,
partners as The Daily
Leader,
Appellant,
vs.

The Board of County
Commissioners of
Pawnee County, O.T.
Appellee.

Ordered by the court that this cause be now submitted on briefs.

#775,
The Board of County Commissioners
of Washita County, O.T.
Appellant,
vs.

Gustavus De Lana,
Appellee.

Ordered by the court that ten days be given defendant in error to file briefs, by agreement of parties.

#822,
Robert Morrow,
Appellant,
vs.

Mary E. Smith,
Appellee.

Ordered by the court that defendant in error be allowed ten days to file briefs herein.

#753,
M. H. Johnson,
Appellant,
vs.

The Board of County Commissioners
of Pawnee County, O.T.
Appellee.

ordered by the court that plaintiff in error be granted leave to file supplemental briefs herein.

#754,
R. R. Poe,
Appellant,
vs.

The Board of County Commissioners
of Pawnee County, O.T.
Appellee.

Ordered by the court that plaintiff in error be granted leave to file supplemental briefs herein

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 10, 7th JUDICIAL DAY.

#755,
Mrs. Logan H. Roots,
Appellant,
vs.

The Board of County Commissioners
of Pawnee County, O.T.
Appellee.

Ordered by the court that plaintiff in error be granted leave to file supplemental briefs herein.

#779,
The Board of County Commissioners
of D County, O.T.
Appellant,
vs.

F. M. Hubble,
Appellee.

Now this cause is orally argued and submitted on briefs.

#786,
The Board of County Commissioners
of Washita County, O.T.
Appellant,
vs.

First National Bank of
El Reno, O.T.
Appellee.

Now this cause is orally argued and submitted on briefs.

#787,
The Board of County Commissioners
of Custer County, O.T.
Appellant,
vs.

First National Bank
of El Reno, O.T.
Appellee.

Now this cause is orally argued and submitted on briefs.

Ordered by the court that a recess be taken to 1:30 p.m. this day.

AFTERNOON SESSION.

Court convened at 1:30 p.m. pursuant to recess. Officers present same as at morning session.

#730,
William Casey and
Charles Casey,
Appellant,
vs.

Mack Mason,
Appellee.

Come now counsel for the parties, and this cause is argued and submitted.

#794,
George Roberts,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

Ordered by the court that 5 days be given to the Attorney-General to file briefs for the defendant in error, and this cause is submitted

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 10, 7th JUDICIAL DAY.

#792,
Henry Ward,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now a transcript is filed herein to supplement the case-made, and 5 days given the attorney General to file briefs, and cause is submitted.

#808,
Lewis Humphrey and Grant Humphrey
Louis Wolf, E. A. Davis, et al,
Appellants,
vs.

Maggie Hunt,
Appellees.

And now this cause comes on for hearing by the court upon the motion to dismiss the same, And the court having duly considered said motion and being fully advised in the premises finds that the same should be overruled.

It is therefore ordered and adjudged by the court that the motion to dismiss the appeal herein be, and the same is hereby overruled.

It is further ordered by the court that the defendant in error be given until April 1, to file briefs, and plaintiff in error given until May 1 to file reply briefs, and the cause is continued to next term.

#809,
Fuller & Fuller Company
(a corporation)
Appellant,
vs.

George P. Johnston,
Appellee.

Ordered by the court that this cause be continued for the term on application of the defendant in error.

#821,
McCormick Harvesting
Machine Company,
Appellant,
vs.

William H. Koch, and
T. J. Koch,
Appellees.

And now the court overrules the motion to dismiss herein.

In re,

Admission of George E. Black and W. H. Grigsby to practice,

Come now George E. Black a member of the bar of Dewey county, O.T., and W. H. Grigsby a member of the bar of Canadian county, O.T., and make application for the admission to the bar of the Supreme Court,

And the court having considered said application and finding that said applicants are persons of good moral character and skilled in the law, the attorneys oath is administered to them, and it is now,

Ordered by the court that George E. Black and W. H. Grigsby be, and they are hereby admitted to practice in the Supreme Court of the Territory, and the inferior courts thereof.

Ordered that court adjourn until 9 o'clock a.m. January 11, 1899.

S U P R E M E C O U R T, J A N U A R Y, 1899, T E R M. -- J A N U A R Y 11, 8th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on the Eleventh day of January, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the January 1899 term of said court, pursuant to law, this being the Eighth judicial day of said term;

Present, the Honorable Jno. W. Burford, Chief Justice, presiding; Associate Justices John L. McAtee, John C. Tarsney, Bayard T. Hainer and Benj. F. Burwell; Benj. F. Hegler, Clerk; ^(By deputy) S. L. Overstreet, U.S. Attorney; C. H. Thompson, U. S. Marshal, and John C. Orner, Court Crier.

Public Proclamation having been duly made by the crier of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#810,
John Ten Cate, Appellant,
vs.
M. E. Sharp, Appellee.

Ordered by the court that further consideration of this cause be continued to January 13.

#807,
George M. Southgate, Appellant,
vs.
B. M. Frier, Appellee.

Ordered by the court that this cause be now submitted on briefs.

#824,
N. B. Trulock, J. B. Trulock
H. C. Bradford, R. S. Trulock, et al,
Appellants,
vs.

J. R. Blair, Appellee.

Ordered by the court that defendant in error be given time to file briefs, and cause taken on briefs.

In re,

Admission of P. T. Tyler to practice,

Comes now C. O. Blake a member of the bar of the Supreme Court, and moves the admission of P. T. Tyler an attorney of the bar of Blaine county, O.T., to practice in said Supreme Court,

And the court having considered said motion, and finding the applicant a person of good moral character and skilled in the law, the attorneys oath is now administered to him, and it is

Ordered by the court that P. T. Tyler be and he is hereby admitted to practice in the Supreme Court of this Territory, and the inferior courts thereof.

And now the court takes a recess for one hour, on written request of the joint session of the Fifth Oklahoma Legislative Assembly to attend the reading of the Governor's message.

AFTERNOON SESSION.

Court convened at 1:30 p.m. pursuant to recess. Officers present same as at morning session, and the following proceedings were had, to-wit:

#795,
H. M. Brewer, A. J. Arnold
and T. P. Neville, the Board County
Commissioners of Grant County,
Appellants,
vs.

M. McKinley,
Appellee.

And now this cause was orally argued to the court and submitted.

#788,
The Board of County Commissioners
of Day County, O.T.
Appellant,
vs.

F. M. Hubble,
Appellee.

And now this cause was orally argued to the court and submitted.

#822,
Robert Morrow,
Appellant,
vs.

Mary E. Smith,
Appellee.

And now this cause is argued and submitted to the court, with leave to file motions for time to amend case-made.

#702,
Pinson & Sunday,
Appellants,
vs.

S. R. Prentise,
Appellee.

Ordered by the court that this cause be now submitted on briefs.

#717,
A. B. Moore,
Appellant,
vs.

S. A. Akins, Sheriff,
J. L. Calvert, Intervenor,
Appellee.

Ordered by the court that this cause be continued to January 12, 1899.

Ordered that court now adjourn to January 12, at 10 o'clock a.m.

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 12, 9th JUDICIAL DAY.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on the Twelfth day of January, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the territory of Oklahoma convened in regular session for the January 1899 term of said court, pursuant to law, this being the Ninth judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices John L. McAtee, John C. Tarsney, Bayard T. Hainer and Benj. P. Burwell; Benj. F. Hegler, Clerk; ^(By deputy) S. L. Overstreet, U. S. Attorney; C. H. Thompson, U. S. Marshal, and John C. Orner, Court Crier.

Public Proclamation having been duly made by the Crier of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#800,
G. M. Carpenter,
Appellant,
vs.

W. F. Pierce, Sheriff, et al,
Appellees.

Ordered by the court that leave be given plaintiff in error to file briefs by January 16.

#819,
Hockaday, Harmon & Roe and
Frank Gabke, Sheriff,
Appellants,
vs.

M. F. Jones,
Appellee.

Ordered by the court that leave be given plaintiff in error to file briefs by January 16.

#802,
Levi Beberstein,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now this cause is by the court taken on briefs, with leave to the Territory to file briefs within five days.

#717,
A. B. Moore,
Appellant,
vs.

S. A. Akina, Sheriff,
J. B. Calvert, Intervenor,
Appellees.

Come now counsel for parties and this cause is orally argued and submitted. And plaintiff in error is allowed permission to file list of authorities. Leave to withdraw part of brief as indicated by parenthetical marks therein, granted.

Ordered by the court that a recess be taken until 1:30 p.m. of this day.

AFTERNOON SESSION.

Court convened at 1:30 p.m. pursuant to recess. Officers present same as at morning session, and the following proceedings were had to-wit:

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 12, 9th JUDICIAL DAY.

#740,
John B. Glover, Appellant,
vs.

Benj. F. Swartz,
Appellee.

And now this cause is orally argued and submitted.

#743,
Leader Printing Company
(a corporation)
Appellant,
vs.

Robert A. Lowry, Pres't
and Sec'y Board of Regents
Okla. A. & M. College, et al,
Appellees.

And now this cause is orally argued and submitted.

Ordered that Court adjourn to January 13, 10 o'clock a.m.

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 13, 10th JUDICIAL DAY.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on the Thirteenth day of January, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the January 1899 term of said court, pursuant to law, this being the Tenth judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices John L. McAtee, John C. Tarsney, Bayard T. Hainer, and Benj. F. Burwell; Benj. F. Hegler, Clerk; (By deputy) S. L. Overstreet, U. S. Attorney; C. H. Thompson, U. S. Marshal, and John C. Orner, Court Crier.

Public Proclamation having been duly made by the crier of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#759,
John Ten Cate, Appellant,
vs.
Noah Fansler, Appellee.

And now this cause is submitted on briefs, plaintiff in error given leave to file a list of additional authorities.

#764,
Caroline Hess, Appellant,
vs.
W. W. Trigg, and
William Hall Trigg, partners,
as Trigg & Trigg.
Appellees.

And now this cause is submitted to the court on briefs and motion. Plaintiff in error given 10 days after notice of motion to make suggestions against same.

#814,
Ed. Bridges, Appellant,
vs.
D. R. Thomas, Appellee.

And now this cause is submitted on briefs, with leave to counsel for plaintiff in error to file additional citations.

#823,
John B. Barnett, Appellant,
vs.
Martha J. Ruyle, Appellee.

And now this cause is submitted to the court on briefs.

#810,
John Ten Cate, Appellant,
vs.
M. E. Sharp, Appellee.

And now this cause is submitted on briefs, with leave given to submit additional authorities.

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 13, 10th JUDICIAL DAY.

#708,
H. H. Hyde, Appellant,
vs.
The Territory of
Oklahoma, Appellee.

And now the court allows plaintiff in error 7 days to file additional briefs.

#798,
William A. Phillips, Appellant,
vs.
Henry H. Keysaw, and
J. B. Manns, Appellees.

And now this cause is by counsel argued, and continued until 1:30 p.m.

UNITED STATES OF AMERICA,)
Territory of Oklahoma.) ss.

ORDER FIXING TERMS OF COURT:

~~Ordered by the court: That terms of court be and they are hereby fixed for the Third District as follows, to-wit:~~

~~At Tecumseh, Pottawatomie County, Tuesday March 14, 1899, at 10 o'clock a.m.~~

It is further ordered by the court: That terms of court be and they are hereby fixed for the Fourth District as follows, to-wit:

At Newkirk, Kay County, Monday, February 20, 1899.

Pawhuska, Osage Nation, Tuesday, April 4, 1899.

Pawnee, Pawnee County, Monday, April 17, 1899.

Perry, Noble County, Monday, May 1, 1899.

It is further ordered, That all orders heretofore made, in conflict with the above, are hereby vacated and set aside.

It is further ordered, That all causes at issue and standing for trial at the terms heretofore fixed shall stand for trial at the terms provided for in this order. And all orders, writs and summonses of every character returnable to the terms as heretofore fixed, shall be returnable and stand for determination at the terms as provided for in this order. And all persons under bond or recognizance to appear at any term of court as heretofore fixed, shall be required to appear on the first day of the term as fixed in this order, in the county in which he was required to appear by such bond or recognizance.

It is further ordered by the court: That the clerk of the Supreme Court send a certified copy of this order to the clerk of the District Court of each of the counties named therein.

Ordered that the court take a recess until 1:30 p.m. this day

AFTERNOON SESSION.

Court convened at 1:30 p.m. pursuant to recess. Officers present same as at morning session, and the following proceedings were had, to-wit:

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 13, 10th JUDICIAL DAY.

#691,

In re,
Will Poulton,

And now this cause is dismissed for failure to prosecute.

#815,

Alfred D. Harris,
Appellant,
vs.Kyle McClung,
Appellee.

Ordered that this cause be now taken on briefs.

#798,

William A. Phillips,
Appellant,
vs.Henry H. Keysaw and
J. B. Manns,
Appellees.

And now the argument of this cause is completed, and the same is submitted.

#745,

William C. Browning, Edward W. Dewey
and Francis King, the sole surviving
partners composing the firm of
Henry W. King & Co.; Kate Tootle,
William W. Wheeler, Joshua Motter
and Francis S. Dameron, partners
under the firm name of Tootle
Wheeler & Motter; the Central National
Bank of Topeka, Kansas, a National
banking corporation; the Bank of Topeka,
a corporation organized under the laws of
the State of Kansas, and A. H. Vance,
Appellants,
vs.Charles H. DeFord,
Appellee.

Now on this thirteenth day of January, 1899, said cause came on for hearing, and was duly submitted by Mr. John W. Shartel, attorney for plaintiffs in error, and by Messrs. Cotteral & Hornor, and Joseph Wisby, attorneys for defendant in error, upon the briefs of the parties.

John H. Burford,
Chief Justice.

UNITED STATES OF AMERICA,) ss.
Territory of Oklahoma.)

ORDER FIXING TERMS OF COURT FOR FIRST DISTRICT.

Ordered: That terms of District Court be held in the First Judicial District as follows:

At Guthrie, Logan County, Second Monday in February and First Monday in November, each year.

At Chandler, Lincoln County, Second Monday in April and First Monday in September, each year.

At Stillwater, Payne County, First Monday in May and Fourth Monday in September.

At Woodward, Woodward County, Fourth Monday in May and Third Monday in October.

It is further ordered, That all orders heretofore made, in conflict with the above, are hereby vacated and set aside.

It is further ordered, That all causes at issue and standing for trial at the terms heretofore fixed, shall stand for trial at the terms provided for in this order. And all orders, writs and summonses of every character returnable to the terms as heretofore fixed, shall be returnable and stand for determination at the terms as provided for in this order. And all persons under bond or recognizance to appear at any term of court as heretofore fixed, shall be required to appear on the first day of the term as fixed in this order, in the county in which he was required to appear by such bond or recognizance.

It is further ordered by the court: That the Clerk of the Supreme Court send a certified copy of this order to the Clerk of the District Court of each of the counties named therein.

Ordered that court now adjourn until 10 o'clock to-morrow morning.

(Belongs in proceedings of Jan. 7)

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 14, 11th JUDICIAL DAY.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on the Fourteenth day of January, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the January 1899 term of said court, pursuant to law, this being the Eleventh judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices John L. McAtee, John C. Tarsney, Bayard T. Hainer, and Benj. F. Burwell; Benj. F. Hegler, Clerk; ^(By deputy) S. L. Overstreet, U.S. Attorney; C. H. Thompson, U. S. Marshal, and John C. Orher, Court Crier.

Public Proclamation having been duly made by the crier of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#612,
William McClure,
Appellant,
vs.
J. W. Johnson,
Appellee.

And now this cause comes on for decision by the court upon the application for a rehearing of the same,

And the court having duly considered said application and being fully advised in the premises finds that said rehearing should be granted.

It is therefore ordered and decreed by the court that a rehearing of this cause be and the same is hereby granted.

#619,
T. W. Williamson,
Appellant,
vs.
The Oklahoma National Bank,
Appellee.

And now this cause comes on for decision by the court upon the petition for a rehearing therein,

And the court having duly considered said application and being fully advised in the premises finds that the petition for a rehearing should be denied.

It is therefore ordered and adjudged by the court that the application for a rehearing in this cause be and the same is hereby denied.

#731,
Jesse J. Bowles,
Appellant,
vs.
William Bushman,
Appellee.

Ordered by the court that this cause be and the same is hereby dismissed for failure to file briefs.

#733,
Ambrose F. Jackson,
Appellant,
vs.
The Jackson Plow Mfg. Co.
et al,
Appellees.

Ordered by the court that this cause be and the same is hereby dismissed for failure to file briefs.

S U P R E M E C O U R T , J A N U A R Y , 1899, T E R M . -- J A N U A R Y 14, 11th J U D I C I A L D A Y .

UNITED STATES OF AMERICA,)
Territory of Oklahoma.) ss.

ORDER FIXING TERMS OF COURT FOR SECOND DISTRICT.

Ordered: That terms of District Court be held in the Second Judicial District as follows:

At Watonga, Blaine County, February 28, 1899.

At Arapahoe, Custer County, March 14th, 1899.

It is further ordered, That all orders heretofore made, in conflict with the above, are hereby vacated and set aside.

It is further ordered, That all causes at issue and standing for trial at the terms heretofore fixed, shall stand for trial at the terms provided for in this order. And all orders, writs and summonses of every character returnable to the terms as heretofore fixed, shall be returnable and stand for determination at the terms as provided for in this order. And all persons under bond or recognizance to appear at any term of court as heretofore fixed, shall be required to appear on the first day of the term as fixed in this order, in the county in which he was required to appear by such bond or recognizance.

It is further ordered by the court: That the Clerk of the Supreme Court send a certified copy of this order to the Clerk of the District Court of each of the counties named therein.

Ordered that court now adjourn until February 9, 1899, at 10 o'clock a.m.

SUPREME COURT, JANUARY, 1899, TERM.--JANUARY 14, 11th JUDICIAL DAY.

February 9, 1899, court convened pursuant to adjournment of January 14, but without transacting any business, adjourned to 2 o'clock p.m. to-morrow.

February 10, 1899, court convened pursuant to adjournment of yesterday, but without transacting any business, adjourned to 10 o'clock a.m. to-morrow.

S U P R E M E C O U R T, J A N U A R Y, 1899, T E R M. -- F E B R U A R Y 11, 12th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on the Eleventh day of February, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the January 1899 term of said court, pursuant to law, this being the Twelfth judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices John L. McAtee, John C. Tarsney, Bayard T. Hainer, and Benj. F. Burwell; Benj. F. Hegler, Clerk; S. L. Overstreet, U.S. Attorney; C. H. Thompson, U. S. Marshal, and John C. Orner, Court Crier.

Public proclamation having been duly made by the crier of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#319,
Nix, Halsell & Co., et al,
Plaintiffs in error,
vs.

H. W. Underhill, et al,
Defendants in error.

And now this cause comes on for decision by the court upon the briefs submitted therein,

And the court having considered said cause and being fully advised in the premises finds that the decision of the lower court should be affirmed.

It is therefore ordered and adjudged by the court that the decision of the lower court in this cause be and the same is hereby affirmed.

Opinion by Justice Tarsney.

#480,
J. M. Lee, Treasurer, et al,
Appellant,
vs.

A. Mehew, et al,
Appellees.

And now this cause comes on for decision by the court upon the petition for a rehearing heretofore granted in said cause, and upon the briefs submitted,

And the court having duly considered said cause and being fully advised in the premises, finds that the same should be reversed and remanded to the District Court of Kingfisher County, with instructions to permit the several defendants in error to prosecute their cause of action separately.

It is therefore ordered and adjudged by the court that this cause be and the same is hereby reversed and remanded to the District Court of Kingfisher County, with instructions to permit the several defendants in error to prosecute their cause of action separately.

Opinion by Justice Tarsney.

#673,
The State Capital Printing Company,
Appellant,
vs.

A. J. Arnold, T. P. Neville and
H. M. Brewer, Board of County
County Commissioners Grant Co.
Appellees.

And now this cause comes on for decision by the court upon the briefs submitted therein,

And the court having duly considered said cause and being fully advised in the premises, finds that the judgment of the lower court should be reversed and said cause dismissed.

It is therefore ordered and adjudged by the court that the judgment of the Probate Court herein be and the same is hereby reversed and said cause dismissed. All the justices concurring.

Opinion by Justice Tarsney.

#683,
Henry C. Ellis,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted therein,

And the court having duly considered said cause and being fully advised in the premises, finds that the judgment of the lower court herein should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the District Court in this cause be and the same is hereby affirmed.

It is further ordered that a mandate issue to the District Court of Pottawatomie County, commanding the Sheriff to execute the judgment herein. All the justices concurring.

Opinion by Justice Tarsney.

#700,
Solon Burkett, et al,
Appellants,
vs.

Lehman-Higginson Grocery
Company,
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted herein,

And the court having duly considered said cause and being fully advised in the premises finds that the same should be reversed and remanded.

It is therefore ordered and adjudged by the court that the judgment of the District Court in this cause be and the same is hereby reversed; and that the same be remanded to the District Court of Garfield County, for a new trial. All the justices concurring except McAtee, Justice, not sitting.

Opinion by Justice Tarsney.

#726,
T. F. McKennon, Administrator
of the estate of Francis R. McKennon, deceased,
Appellant,
vs.

Harry W. Pentecost, late receiver in
Francis R. McKennon vs. Harry Coulton, et al,
Appellees.

And now this cause comes on for decision by the court upon the briefs submitted herein,

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the lower court herein should be affirmed.

It is therefore ordered and adjudged by the court that the order and judgment of the District Court of Logan County, be and the same is hereby affirmed. All the Justices concurring.

Opinion by Justice Tarsney.

S U P R E M E C O U R T, J A N U A R Y, 1899, T E R M. -- F E B R U A R Y 11, 12th J U D I C I A L D A Y.

#727,
Burton S. Barnes and
John Dalton, partners
as Barnes & Dalton,
Appellants,
vs.

J. E. Lynch, The Ponca
City Land and Improvement
Co. (a corporation)
Appellee.

And now this cause comes on for consideration by the court upon the motion to dismiss the same.

And the court having duly considered said motion and being fully advised in the premises finds that it should be sustained, and the cause dismissed.

It is now therefore ordered and adjudged by the court that the appeal herein be and the same is hereby dismissed.

Opinion by Tarsney, Justice. All the justices concurring except Hainer, Justice, not sitting.

#736,
John A. McPadyen, and
Sarah Brown,
Appellants,
vs.

H. C. Masters, Sheriff
of Kay County,
Appellee.

And now this cause comes on for decision on the submission of January 9, 1899.

And the court having duly considered said cause and being fully advised in the premises finds that the same should be reversed and cause remanded.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby reversed and cause remanded to the lower court for a new trial upon the sole questions of the assessment of the value of the property, and of the damages for their detention. The judgment and verdict as to the ownership of the property, and the plaintiffs' right to recover the same, is approved and is not to be disturbed upon new trial.

Opinion by Justice Tarsney. All the justices concurring.

#737,
Territory of Oklahoma ex rel
W. R. Taylor, County Attorney,
Appellant,
vs.

Richard F. Caffrey, Co. Clerk
of Oklahoma County, G. T.
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the lower court herein should be reversed and a peremptory writ ordered.

It is therefore ordered and adjudged by the court that the judgment of the court below in this cause be and the same is hereby reversed.

It is further ordered by the court that a peremptory writ issue from this court to the respondent, directing and commanding him to do and perform the acts and things prayed by the relator in the petition in this cause.

Opinion by Tarsney, Justice. All the Justices concurring except McAtee, Justice, not sitting.

#745,

William C. Browning, Edward W. Dewey
and Francis King, the sole surviving
partners composing the firm of
Henry W. King & Co.; Kate Tootle,
William W. Wheeler, Joshua Motter
and Francis S. Pameron, partners
under the firm name of Tootle
Wheeler & Motter; the Central National
Bank of Topeka, Kansas, a National
banking corporation; the Bank of Topeka,
a corporation organized under the laws
of the State of Kansas, and A. H. Vance,
Appellants,

vs.

Charles H. DeFord,

Appellee.

Now on this eleventh day of February, A.D., 1899, said cause coming on for final decision by the court. And the court having duly considered of its judgment in said cause and being duly advised in the premises, it is hereby considered,

Ordered and adjudged that the judgment of the lower court be and the same is hereby affirmed in all things, to which judgment the said plaintiffs in error, and each of them duly excepted and except.

Opinion by Tarsney, justice. All the justices concurring.

#746,

Richard F. Caffrey, County Clerk
of Oklahoma County, O.T.

Appellee,

vs.

H. Overholser,

Appellee.

And now this cause comes on for consideration by the court upon the briefs submitted herein.

And the court having duly considered said cause and being fully advised in the premises, finds that the judgment of the lower court should be reversed, and the cause remanded.

It is therefore ordered and adjudged by the court that the judgment of the lower court herein be, and the same is hereby reversed and this cause remanded to the lower court with instructions to overrule the demurrer, and proceed in conformity with this opinion.

Opinion by Tarsney, justice. All the justices concurring except McAtee, justice, not sitting.

#749,

George H. Coulson,
Clerk Woods County, O.T.

Appellant,

vs.

The Territory of Oklahoma
ex rel Jesse J. Dunn,
County Attorney, Woods Co.
Appellee.

And now this cause comes on for decision by the court upon the record and briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the lower court should be reversed and cause dismissed.

It is therefore ordered and adjudged by the court that the judgment of the lower court herein be, and the same is hereby reversed and this cause dismissed; the costs to be taxed to the relator.

Opinion by Justice Tarsney. All the justices concurring except McAtee, justice not sitting.

SUPREME COURT, JANUARY, 1899, TERM.--FEBRUARY 11, 12th JUDICIAL DAY.

#795,
H. M. Brewer, A. J. Arnold and
E. P. Neville, the Board of
County Commissioners of Grant Co.
Appellant,

vs.

H. McKinley,
Appellee.

And now this cause comes on for decision by the court upon the oral argument and briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the decision of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the court that the decision of the lower court herein be, and the same is hereby affirmed.

Opinion by Tarsney, Justice. All the justices concurring except McAtee, justice, who tried the case below.

#798,
William A. Phillips,
Appellant,

vs.

Henry H. Keysaw and
J. B. Hanna,
Appellee.

And now this cause comes on for decision by the court upon the briefs and oral argument submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the lower court therein be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed.

Opinion by Tarsney, Justice. All the justices concurring except Hainer, justice, who tried the cause below.

#801,
J. T. Godfrey, Sheriff,
and H. V. Van Petten,
Treasurer of Grant County,
Oklahoma,
Appellants,

vs.

W. P. Wright & E. L. Claunch,
partners, doing business under the firm name
and style of Wright & Claunch,
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having considered said cause and being fully advised in the premises finds that the judgment of the lower court herein should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed.

Opinion by Tarsney, Justice. All the justices concurring except McAtee, Justice who tried the cause below.

SUPREME COURT, JANUARY, 1899, TERM.--FEBRUARY 11, 12th JUDICIAL DAY.

#812,
H. M. Brewer, A. J. Arnold and
T. P. Neville, the Board of
County Commissioners of
Grant County, O.T.

Appellant,

vs.

J. M. Asher,

Appellee.

And now this cause comes on for decision by the court upon the briefs submitted herein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the lower court therein should be affirmed.

It is therefore ordered and adjudged by the court that the decision of the lower court in this cause be and the same is hereby affirmed.

Opinion by Tarsney, Justice. All the justices concurring except McAtee, Justice not sitting.

#817,
J. W. Martin as County Treasurer
W. B. Trousdale, as Sheriff, and
the Board of County Commissioners of
Pottawatomie County,

Appellant,

vs.

Samuel Clay, for himself and
fifty-five others,

Appellee.

And now this cause comes on for consideration by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the lower court therein should be reversed and cause remanded.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby reversed and the cause remanded with instructions to the District Court to set aside the order overruling the dismissal and sustain the same and permit such other proceedings in this cause as may be in accordance with this opinion.

Opinion by Tarsney, Justice. All the Justices concurring except McAtee, Justice, not sitting.

#819,
Rollin M. Hockaday,
W. H. Harmon, and
E. J. Roe, partners as
Hockaday, Harmon & Roe and
Frank Gebke, Sheriff of Lincoln County,

Appellant,

vs.

M. E. Jones,

Appellee.

And now this cause comes on for consideration by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the lower court herein should be reversed and cause dismissed.

It is therefore ordered and adjudged by the court that the judgment of the lower court herein be and the same is hereby reversed and said cause dismissed.

Opinion by Tarsney, Justice. All the Justices concurring except Burford, C.J., who tried the cause below.

SUPREME COURT, JANUARY, 1899, TERM.--FEBRUARY 11, 12th JUDICIAL DAY.

#542,
E. W. Erisman,
Appellant,
vs.
J. J. Kerwin,
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the same should be reversed and remanded.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby reversed and the cause remanded to the District Court, with instructions to enter judgment for the defendant in error, in conformity with the reports of the referees, and for the costs in this court and in the court below.

Opinion by Hainer, Justice. All the justices concurring except Burwell, Justice, who, having been of counsel not sitting.

#701,
Elnora Everett,
Appellant,
vs.
S. A. Akins,
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the lower court therein should be modified and the cause remanded.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby modified; and that this cause be remanded to the District court with instructions that said court render judgment in conformity with this opinion.

It is further ordered that the costs in this court and also in the District Court be taxed equally between the plaintiff and defendant.

Opinion by Hainer, Justice. All the other Justices concurring.

#702,
Pinson & Sunday,
Appellants,
vs.
S. R. Prentise,
Appellee.

And now this cause comes on for consideration by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the District Court therein should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the District Court in this cause be and the same is hereby affirmed.

Opinion by Hainer, Justice. All the Justices concurring.

#708,
H. H. Hyde,
Appellant,
vs.
The Territory of Oklahoma,
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that

SUPREME COURT, JANUARY, 1899, TERM.--FEBRUARY 11, 12th JUDICIAL DAY.

the judgment of the lower court therein should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed.

Opinion by Hainer, Justice. All the Justices concurring except McAtee, Justice, who tried the cause below, not sitting.

#753,
M. H. Johnson,
Appellant,
vs.

The Board of County Commissioners
of Pawnee County, O.T.
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the Probate Court therein should be reversed and cause remanded for a new trial.

It is therefore ordered and adjudged by the court that the judgment of the Probate Court in this cause be and the same is hereby reversed and this cause remanded to said court with directions to grant a new trial.

Opinion by Hainer, Justice. All the Justices concurring.

#754,
R. R. Poe,
Appellant,
vs.

The Board of County
Commissioners of
Pawnee County, O.T.
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the Probate Court should be reversed and cause remanded for a new trial.

It is therefore ordered and adjudged by the court that the judgment of the Probate Court in this cause be and the same is hereby reversed; and that this cause be remanded to said Probate Court with directions to grant a new trial.

Opinion Per curiam.

#755,
Mrs. Logan H. Roots,
Appellant,
vs.

The Board of County Commissioners
of Pawnee County, O.T.
Appellee.

And now this cause comes on for decision by the court upon the briefs filed herein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the Probate Court herein should be reversed and cause remanded.

It is therefore ordered and adjudged by the court that this cause be and the same is hereby reversed and remanded.

Opinion Per curiam.

#765,
Charles E. Vandervoort,
Appellant,
vs.

Board of County Commissioners of
of Pawnee County, O.T.

SUPREME COURT, JANUARY, 1899, TERM.--FEBRUARY 11, 12th JUDICIAL DAY.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the appeal herein should be dismissed for the reason that more than one year has intervened between the rendition of the judgment and the final order sought to be reviewed, and the filing of the petition in error in the Supreme Court.

It is therefore ordered and adjudged by the court that this petition be and the same is hereby dismissed.

Opinion by Hainer, Justice. All the Justices concurring.

#766,
Charles E. Vandervoort,
Appellant,
vs.
Board of County Commissioners
of Pawnee County, O.T.
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the appeal herein should be dismissed for the reason that more than one year has intervened between the rendition of the judgment and the final order sought to be reviewed, and the filing of the petition in error in the Supreme Court.

It is therefore ordered and adjudged by the court that this petition be and the same is hereby dismissed.

Opinion by Hainer, Justice. All the Justices concurring.

#767,
Charles E. Vandervoort,
Appellant,
vs.
Board of County Commissioners
of Pawnee County, O.T.
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the appeal herein should be dismissed for the reason that more than one year has intervened between the rendition of the judgment and the final order sought to be reviewed, and the filing of the petition in error in the Supreme Court.

It is therefore ordered and adjudged by the court that this petition be and the same is hereby dismissed.

Opinion by Hainer, Justice. All the Justices concurring.

#768,
Charles E. Vandervoort,
Appellant,
vs.
Board of County Commissioners
of Pawnee County, O.T.
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the appeal herein should be dismissed for the reason that more than one year has intervened between the rendition of the judgment and the final order sought to be reviewed, and the filing of the petition in error in the Supreme Court.

It is therefore ordered and adjudged by the court that this petition be and the same is hereby dismissed.

Opinion by Hainer, Justice. All the Justices concurring.

#769,
Charles E. Vandervoort,
Appellant,
vs.
Board of County Commissioners
of Pawnee County, O.T.
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the appeal herein should be dismissed for the reason that more than one year has intervened between the rendition of the judgment and the final order sought to be reviewed, and the filing of the petition in error in the Supreme Court.

It is therefore ordered and adjudged by the court that this petition be and the same is hereby dismissed.

Opinion by Hainer, Justice. All the Justices concurring.

#770,
The Board of County Commissioners
of D County, O.T.
Appellant,
vs.
Joel R. Burrow,
Appellee.

And now this cause comes on for decision by the court upon the briefs and oral argument therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the lower court therein should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed.

Opinion by Hainer, Justice. All the Justices concurring except Tarsney, Justice, who tried the cause below, not sitting.

#772,
The Board of County Commissioners
of Custer County, O.T.
Appellant,
vs.
Robert G. Moon,
Appellee.

And now this cause comes on for consideration by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the appeal herein should be dismissed for defective pleading.

It is therefore ordered and adjudged by the court that this cause be and the same is hereby dismissed.

Opinion by Hainer, Justice. Justices McAtee and Burwell concurring; Justice Tarsney having presided in the court below not sitting; Chief Justice Burford having been of counsel in the court below, took no part in this proceeding.

SUPREME COURT, JANUARY, 1899, TERM.--FEBRUARY 11, 12th JUDICIAL DAY.

#773,

The Board of County Commissioners
of Washita, County, O.T.

Appellant,

vs.

F. M. Hubbell,

Appellee.

And now this cause comes on for consideration by the court upon the briefs filed herein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the lower court therein should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the District Court of Canadian county, in this cause be and the same is hereby affirmed.

Opinion by Hainer, Justice. All the Justices concurring except Tarsney, Justice, who presided in the trial of the cause below.

#774,

The Board of County Commissioners
of D County, O.T.

Appellant,

vs.

F. H. Wright,

Appellee.

And now this cause comes on for consideration by the court upon the briefs and oral argument therein.

And the court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the District Court herein be and the same is hereby affirmed.

Opinion by Hainer, Justice. Justice McAtee and Burwell concurring; Tarsney, Justice, having presided in the court below; and Burford C.J., having been of counsel in the court below, not sitting.

#776,

The Board of County Commissioners
of Custer County, O.T.

Appellant,

vs.

Gustavus De Lana,

Appellee.

And now this cause comes on for decision by the court upon the briefs and oral argument therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the District Court in this cause should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the District Court herein be and the same is hereby affirmed.

Opinion by Hainer, Justice. Justices McAtee and Burwell concurring; Tarsney, Justice who tried the cause in the court below; and Burford, C. J., having been of counsel in the court below, not sitting.

#779,

The Board of County Commissioners
of D County, O.T.

Appellant,

vs.

F. M. Hubbell,

Appellee.

And now this cause comes on for consideration by the court upon the briefs and oral argument therein.

And the court having duly considered said cause and being fully advised in the premises finds that

SUPREME COURT, JANUARY, 1899, TERM.--FEBRUARY 11, 12th JUDICIAL DAY.

the trial judge did not sign the certificate which is attached to what purports to be the case-made in this cause, and the petition in error should be dismissed, the Supreme Court being without jurisdiction to review the same.

It is therefore ordered and adjudged by the court that this cause be and the same is hereby dismissed.

Opinion by Hainer, Justice. All the Justices concurring, except Tarsney, Justice, having tried the cause below, not sitting.

#781,
The Board of County Commissioners
of Washita County, O.T.
Appellant,

vs.

Joel R. Burrow,
Appellee.

And now this cause comes on for decision by the court upon the briefs and argument therein.

And the court having duly considered said cause and being fully advised in the premises finds that the appeal herein should be dismissed on account of defective pleading.

It is therefore ordered and adjudged by the court that the petition in error herein be and the same is hereby dismissed.

Opinion by Hainer, Justice. All the Justices concurring, except Tarsney, Justice, who presided at the trial in the cause below.

#788,
The Board of County Commissioners
of Day County, O.T.
Appellant,

vs.

F. M. Hubbell,
Appellee.

And now this cause comes on for consideration by the court upon the briefs and oral argument therein.

And the court having duly considered the same and being fully advised in the premises finds that the case-made was not served in time in this cause, and this court is without authority to review said cause, and the same should be dismissed.

It is therefore ordered and adjudged by the court that the appeal herein be and the same is hereby dismissed.

Opinion by Hainer, Justice. All the Justices concurring except Tarsney, Justice, who presided at the trial in the cause below.

#789,
The Board of County Commissioners
of D County, O.T.
Appellant,

vs.

N. & W. Sauer,
Appellees.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the District Court herein should be reversed, and cause remanded.

It is therefore ordered and adjudged by the court that the judgment of the District Court herein be and the same is hereby reversed.

It is further ordered by the court that this cause be remanded to the District Court with directions

SUPREME COURT, JANUARY, 1899, TERM.--FEBRUARY-11, 12th JUDICIAL DAY.

to overrule plaintiff's demurrer to the answer herein.

Opinion by Hainer, Justice. All the justices concurring except Tarsney, Justice, who presided at the trial in the cause below.

#791,

Roy V. Hoffman and
William Blincoe,
partners as The Daily Leader,
Appellant,
vs.

The Board of County Commissioners
of Pawnee County, O.T.,
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that more than one year has intervened between the rendition of the judgment or final order sought to be reviewed, and the filing of the petition in error in the Supreme Court, and this court is therefore without jurisdiction to review the judgment of the lower court; and that this appeal should be dismissed.

It is therefore ordered and adjudged by the court that the appeal herein be and the same is hereby dismissed.

Opinion by Hainer, Justice. All the Justices concurring.

#722,

Calvin Lawson,
Appellant,
vs.

The territory of Oklahoma,
Appellee.

And now this cause comes on for consideration by the court upon the briefs and oral argument therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the lower court therein should be reversed and the cause remanded for a new trial.

It is therefore ordered and adjudged by the court that the judgment of the District Court of D County in this cause be and the same is hereby reversed and set aside, and this cause remanded thereto for a new trial.

It is further ordered that the opinion of the court in this cause be certified to the Sheriff of D county, as his warrant for further action in this cause.

Opinion by Burwell, Justice. All the Justices concurring except Tarsney, Justice, who presided at the trial in the cause below.

#762,

James Hughes,
Appellant,
vs.

The territory of Oklahoma,
Appellee.

And now this cause comes on for consideration by the court upon the briefs and oral argument submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the lower court therein should be reversed and cause remanded for a new trial.

It is therefore ordered and adjudged by the court that the judgment of the District Court of Washita County, in this cause be and the same is hereby reversed and said cause remanded thereto for a new trial.

Opinion by Burwell, Justice. All the Justices concurring except Tarsney, Justice, who presided at the trial in the cause below; and Burford, Chief Justice, who was of counsel for the accused in the court below both not sitting.

SUPREME COURT, JANUARY, 1899, TERM.--FEBRUARY 11, 12th JUDICIAL DAY.

#662,

Richard Pappé,
Appellant,
vs.

The American Fire
Insurance Company of
Philadelphia,
Appellee.

And now this cause comes on for consideration by the court upon the briefs of both parties therein.

And the court having duly considered said cause and being fully advised in the premises finds that the case made presented to this court does not contain all of the evidence introduced on the trial, and for that reason the judgment of the trial court is hereby affirmed and cause remanded to the lower court.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause is hereby affirmed, and cause remanded to the lower court.

Opinion by Burwell, Justice. All of the Justices concurring except McAtee, Justice, who presided at the trial of the cause below.

#706,

Emma M. Sheriff,
Appellant,
vs.

Watson E. Sheriff and
Mary A. Sheriff,
Appellees.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the order of the trial court overruling the motion for a new trial should be affirmed at appellant's cost.

It is therefore ordered and adjudged by the court that the judgment of the trial court herein be and the same is hereby affirmed at the cost of appellant.

Opinion by Burwell, Justice. All of the Justices concurring except Burford, C. J., who presided at the trial below.

#722,

Henry Ward,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for consideration by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment and sentence of the court below should be affirmed at the cost of appellant.

It is therefore ordered and adjudged by the court that the judgment of the District Court of Lincoln County, in this cause be and the same is hereby affirmed at the cost of appellant.

Opinion by Burwell, Justice. All of the justices concurring except Burford, C. J., who tried the cause below; and McAtee, Justice, absent, not sitting.

#668,

O. S. Sutter,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that

S U P R E M E C O U R T, J A N U A R Y, 1899, T E R M.--F E B R U A R Y 11, 12th J U D I C I A L D A Y.

the judgment of the lower court therein should be reversed, and a new trial granted.

It is therefore ordered and adjudged by the court that the judgment of the District Court of Pawnee County in this cause be and the same is hereby reversed, and a new trial ordered.

Opinion by Burford, C. J. All of the Justices concurring.

#678,

Hubert O. Bell,
Appellant,
vs.

The Territory of Oklahoma
ex rel Ida L. Dillman,
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the Probate Court of Payne County, herein, should be reversed and cause remanded thereto with instructions.

It is therefore ordered and adjudged by the court that the judgment of the Probate Court of Payne County, in this cause, be and the same is hereby reversed; and that this cause be remanded to said Probate Court of Payne County, with instructions to proceed therein in accordance with this opinion.

#804,

William G. Martin,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for decision by the court upon the briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the lower court should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the Probate Court of Payne County, in this cause, be and the same is hereby affirmed at the cost of the plaintiff in error; and the Probate court directed to take the necessary steps to carry said judgment into effect.

UNITED STATES OF AMERICA,)
; ss.
Territory of Oklahoma.)

ORDER FIXING A TERM OF COURT FOR THE THIRD DISTRICT.

Ordered that a term of District Court be held in the Third Judicial District as follows, to-wit:

At Tecumseh, Pottawatomie County, Tuesday, March 14, 1899, at 10 o'clock a.m.

It is further ordered that all orders heretofore made in conflict with the above are herewith vacated and set aside.

It is further ordered that all causes at issue and standing for trial at the term heretofore fixed shall stand for trial and determination at the term provided for by this order. And all orders, writs and summonses of every character returnable to the terms of court as heretofore fixed shall be returnable and stand for determination at the term provided for in this order. And all persons under bond or recognizance to appear at any term of court as heretofore fixed, shall be required to appear on the day as fixed in this order.

And it is further ordered that the Clerk of the Supreme Court send a certified copy of this order to the Clerk of the District Court of each District of the Territory.

#899, George W. Miller, Appellant, vs. The United States, Appellee. Ordered by the Court that the stipulation herein be overruled, and cause taken on briefs.

It is now ordered that the January 1899, term be finally adjourned.

SUPREME COURT PROCEEDINGS IN VACATION.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

Morris Brown, Plaintiff in error,)

Versus (

O R D E R.

Laura Donnelly, Defendant in error.)

Now, upon this 3rd day of March, A.D. 1899, this cause comes on for hearing before the undersigned, Chief Justice of the Supreme Court of the Territory of Oklahoma, at Guthrie, in the Territory of Oklahoma, upon the application of the plaintiff in error, Morris Brown, for an order to allow him to file a supersedeas bond in said cause to supersede that part of the judgment of the District Court requiring said Morris Brown to remove from his house and other buildings immediately surrounding the same upon the Northeast quarter, Section 22, Township 23, North Range 1, West of I.M. in Noble County, Oklahoma Territory, and requiring the said plaintiff in error to remove from said premises his said residence and other buildings within thirty days from the eighteenth day of February, A.D. 1899; and it appearing that all the matters of fact set forth in the application of the plaintiff in error are true, and that a supersedeas bond should be allowed, and order of supersedeas rendered herein, it is hereby ordered and directed that execution of said judgment be staid as to that part of said judgment requiring plaintiff in error to remove from said premises and to remove his house and other buildings and improvements immediately surrounding the same, therefrom, until this cause is finally determined in this court, and in the said District Court; Provided, that said plaintiff in error shall, within ten days from this date, execute to the defendant in error a good and sufficient bond in the sum of Three Hundred Dollars, conditioned according to law, and to be approved by the clerk of the District Court of Noble County, Oklahoma Territory, and also containing the special condition that in case the judgment of the District Court shall finally be affirmed, that the plaintiff in error, Morris Brown, will pay to the defendant in error, all damages which he may suffer by reason of the supersedeas herein, including the actual rental value of five acres of said premises retained by plaintiff in error, upon which the said improvements are situated, from the time that the judgment of the lower court would have taken effect, until the said plaintiff in error shall finally surrender possession of said premises.

WITNESS my hand this 3rd day of March, A.D. 1899.

Jno. H. Burford,

Chief Justice Supreme Court,
Territory of Oklahoma.

(Seal)

Attest:

Benj. F. Hegler,
Clerk Supreme Court.UNITED STATES OF AMERICA,)
; ss.
Territory of Oklahoma.)

In the Supreme Court.

(In Chambers)

ORDER FOR SPECIAL SESSION:

Whereas, a necessity exists for a special session of the Supreme Court of the Territory of Oklahoma, Now, therefore, I, Jno. H. Burford, Chief Justice of said Supreme Court, do hereby order that a special session of said Supreme Court be convened at the city of Guthrie, on Friday the 10th day of March, 1899, beginning at two o'clock p.m. of said day. And the clerk of said court is directed to notify each of the Associate Justices of said court of the order for special session, and request their attendance thereon. Witness my hand, in Chambers, at the city of Guthrie, this 7th day of March, 1899.

Jno. H. Burford, Chief Justice.

ATTEST: Benj. F. Hegler.

SUPREME COURT, SPECIAL SESSION, -- MARCH 10, FIRST DAY, 1899.

UNITED STATES OF AMERICA,
 TERRITORY OF OKLAHOMA,
 IN THE SUPREME COURT.

BE IT REMEMBERED, That on this the Tenth day of March, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in special session at 2 o'clock p.m. pursuant to the call of the Chief Justice dated March 7th, 1899.

Present; The Honorable Jno. H. Burford, Chief Justice, presiding; Honorables John C. Tarsney, John L. McAtee, Bayard T. Hainer and Benj. F. Burwell, Associate Justices; S. L. Overstreet, United States Attorney; C. H. Thompson, United States Marshal; Benj. F. Hagler, Clerk, and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#700,

Solon Burkett, et al,
 Appellants,
 vs.

Lehrman-Higginson
 Grocery Company,
 Appellee.

And now this cause comes on for consideration by the court upon the petition for a rehearing of the same. And the court having duly considered said petition, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the court that the petition for a rehearing of this cause be and the same is hereby denied.

#727,

Burton S. Barnes and
 John Dalton, Partners as
 Barnes & Dalton,
 Appellants,
 vs.

J. W. Lynch, The Ponca City
 Land and Improvement Company
 (a corporation)
 Appellees.

And now this cause comes on for consideration by the court upon the petition for a rehearing of the same. And the court having duly considered said petition, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the court that the petition for a rehearing of this cause be and the same is hereby denied.

#701,

Elnora Everett,
 Appellant,
 vs.

S. A. Akins,
 Appellee.

And now this cause comes on for consideration by the court upon the petition for a rehearing of the same. And the court having duly considered said petition, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the court that the petition for a rehearing of this cause be and the same is hereby denied.

SUPREME COURT, 1899, SPECIAL SESSION. -- MARCH 10, FIRST DAY.

In re,

Induction of Clinton F. Irwin as Associate Justice.

of the Supreme Court of the Territory of Oklahoma,

Comes now Clinton F. Irwin into open court and presents to the court his commission as Associate Justice of the Supreme Court of the Territory of Oklahoma, which commission reads in words and figures as follows, to-wit:

William McKinley,

President of the United States of America.

To all who shall see these Presents, Greeting:

KNOW YE; That reposing special trust and confidence in the Wisdom, Uprightness and Learning of Clinton F. Irwin of Illinois, I have nominated, and by and with the advice and consent of the Senate do appoint him Associate Justice of the Supreme Court of the Territory of Oklahoma and do authorize and empower him to execute and fulfil the duties of the Office according to the Constitution and Laws of the said United States and to Have and to Hold the said Office, with all the powers, privileges and emoluments to the same of right appertaining, unto Him the said Clinton F. Irwin, for the term of four years from the date hereof, subject to the conditions and provisions prescribed by Law.

In testimony whereof, I have caused these Letters to be made patent and the seal of the Department of Justice to be hereunto affixed.

(SEAL)

Given under my hand at the City of Washington the 21st day of February, in the year of our Lord one thousand eight hundred and ninety-nine and of the Independence of the United States of America the one hundred and twenty-third.

By the President: William McKinley.

John W. Griggs,
Attorney General.

And the oath, to-wit: (United States of America, Territory of Oklahoma, ss. I, Clinton F. Irwin solemnly swear that to the best of my knowledge and ability I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will faithfully discharge the duties of the office of Associate Justice of the Supreme Court of the Territory of Oklahoma. So help me God.

Clinton F. Irwin.

Subscribed and sworn to before me this 10 day of March, A.D., 1899.

Jno. H. Burford

Chief Justice of the Supreme Court of
Oklahoma Territory.

Attest:

Benj. F. Hegler,
Clerk Sup. Ct.

(Seal)

And the oath of office is administered by Chief Justice Burford, to the said Clinton F. Irwin, and he is inducted into office as an Associate Justice of said Supreme Court.

And it is further ordered by the court that the clerk transmit to the Department of Justice a certified copy of the oath of office of the said Clinton F. Irwin.

SUPREME COURT, 1899, SPECIAL SESSION. -- MARCH 10, FIRST DAY.

In re,

Admission of Thomas J. Womack to practice,

Comes now J. C. Strang a member of the bar of the Supreme Court, and moves the admission of T. J. Womack a member of the bar of the District Court of Woods county, to practice in the Supreme Court.

And it appearing to the court that applicant is a person of good moral character, and skilled in the law it is therefore

Ordered by the court that Thomas J. Womack be and he is hereby admitted to practice in the Supreme Court of the Territory and the inferior courts thereof.

In re,

Admission of W. H. Coffield to practice,

Comes now J. W. Quick a member of the bar of the Supreme Court, and moves the admission of W. H. Coffield a member of the bar of the District Court of Woods county, to practice in the Supreme Court.

And it appearing to the court that applicant is a person of good moral character, and skilled in the law it is therefore

Ordered by the court that W. H. Coffield be and he is hereby admitted to practice in the Supreme Court of the Territory and the inferior courts thereof.

In re,

Admission of G. W. P. Brown to practice,

Comes now George S. Green a member of the bar of the Supreme Court, and moves the admission of G. W. P. Brown a member of the bar of the District Court of Logan county, to practice in the Supreme Court.

And it appearing to the court that applicant is a person of good moral character, and skilled in the law it is therefore

Ordered by the court that G. W. P. Brown be and he is hereby admitted to practice in the Supreme Court of the Territory and the inferior courts thereof.

In re,

Admission of Daniel W. Lewis to practice,

Comes now W. W. Noffsinger a member of the bar of the Supreme Court, and moves the admission of Daniel W. Lewis a member of the bar of the District Court of Kingfisher county, to practice in the Supreme Court.

And it appearing to the court that applicant is a person of good moral character, and skilled in the law it is therefore

Ordered by the court that Daniel W. Lewis be and he is hereby admitted to practice in the Supreme Court of the Territory and the inferior courts thereof.

Ordered that court adjourn to 2 o'clock p.m. to-morrow.

SUPREME COURT, 1899, SPECIAL SESSION. -- MARCH 11, SECOND DAY.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Eleventh day of March, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened at 2 o'clock p.m. pursuant to yesterday's adjournment.

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices John L. McAtee, Bayard T. Hainer, Benj. F. Burwell and Clinton F. Irwin, Associate Justices; S. L. Overstreet, United States Attorney; C. H. Thompson, United States Marshal; Benj. F. Hegler, Clerk, and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business the following proceedings were had, to-wit:

#597,

R. H. Downman,
Appellant,
vs.

George Saunders,
Appellee.

And now this cause comes on for consideration and decision by the court upon the motion to reinstate the same,

And the court having duly considered said motion, and being fully advised in the premises, finds that the same should be denied.

It is therefore ordered and adjudged by the court that the motion to reinstate this cause be and the same is hereby denied.

#727,

Burton S. Barnes and John Dalton,
partners, as Barnes & Dalton,
Appellants,
vs.

J. W. Lynch, The Ponca City
Land and Improvement Company
(a corporation)
Appellee.

Ordered by the court that the order of yesterday in this cause denying the petition for a rehearing, be and the same is hereby overruled, vacated and set aside; and that this order stand on application for rehearing.

#753,

M. H. Johnson,
Appellant,
vs.

The Board of County Commissioners
of Pawnee county, O.T.
Appellee.

And now this cause comes on for consideration by the court upon the petition for a rehearing of the same. And the court having considered said petition, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the court that the petition for a rehearing in this cause be and the same is hereby denied.

SUPREME COURT, 1899, SPECIAL SESSION. -- MARCH 11, SECOND DAY.

#754,

R. R. Poe,
Appellant,
vs.

The Board of County Commissioners
of Pawnee County, O.T.
Appellee.

And now this cause comes on for consideration by the court upon the petition for a rehearing of the same. And the court having duly considered said petition, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the court that the petition for a rehearing in this cause be and the same is hereby denied.

#755,

Mrs. Logan H. Roots,
Appellant,
vs.

The Board of County Commissioners
of Pawnee County, O.T.
Appellee.

And now this cause comes on for consideration by the court upon the petition for a rehearing of the same. And the court having duly considered said petition, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the court that the petition for a rehearing in this cause be and the same is hereby denied.

#542,

E. W. Erisman,
Appellant,
vs.

J. J. Kerwin,
Appellee.

And now this cause comes on for consideration by the court upon the petition for a rehearing thereof. And the court having considered said petition and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the court that the petition for a rehearing in this cause be and the same is hereby denied.

In re,

Order assigning Judge to the Second Judicial District,

It is ordered by the court, That Associate Justice Clinton F. Irwin be and he is hereby assigned to the Second Judicial district of the Territory of Oklahoma.

It is further ordered, That the Clerk transmit a certified copy of this order to each of the District Courts of the Territory.

Jno. H. Burford,

Chief Justice.

Attest:

Benj. F. Hegler,

Clerk Supreme Court.

S U P R E M E C O U R T, 1899, S P E C I A L S E S S I O N. -- M A R C H 11, S E C O N D D A Y.

In re,

Order defining Fifth Judicial District.

It is ordered that the Fifth Judicial District shall, from and after this date, embrace and be comprised of the counties of Garfield, Grant, Woods, Blaine, Dewey, and Day; and that said counties of Blaine, Dewey and Day, shall no longer constitute any part of the Second Judicial District.

It is further ordered that the Clerk of the Supreme Court send a certified copy of this order to the Clerk of the District Court of each district of the Territory.

Jno. H. Burford,
Chief Justice.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

ORDER FIXING TERMS OF DISTRICT COURT IN THE SECOND JUDICIAL DISTRICT.

Ordered by the Court: That terms be fixed for the Second Judicial district as follows, to-wit:

At Arapahoe, Custer County, Tuesday, April 4, 1899.

It is further ordered that the order heretofore made fixing a term in said county for March 14, 1899, be and the same is hereby vacated and set aside.

It is further ordered, That all causes at issue and standing for trial at the term heretofore fixed for said county of Custer, shall stand for trial and determination at the term provided for by this order. And all orders, writs and summonses of every character returnable to the term of court as heretofore fixed shall be returnable and stand for determination at the term provided for in this order. And all persons under bond or recognizance to appear at any term of court as heretofore fixed, shall be required to appear on the day as fixed in this order.

It is further ordered, That terms be fixed for said Second Judicial District as follows, to-wit:

At Cloud Chief, Washita County, Monday, April 17.

At Kingfisher, Kingfisher County, Monday April 24.

At El Reno, Canadian County, Monday, May 15.

It is further ordered, that the clerk transmit a certified copy of this order to the clerk of each district of the Territory, and to the United States Attorney and United States Marshal.

Jno. H. Burford,
Chief Justice.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

ORDER FIXING TERM IN THE THIRD JUDICIAL DISTRICT.

Ordered by the Court: That a term be fixed for the county of Cleveland, in the Third Judicial District, as follows, to-wit:

At Norman, Cleveland County, Monday, May 15.

It is further ordered that the clerk transmit a certified copy of this order to each of the District Clerks of the Territory, and to the United States Marshal, and United States Attorney.

Jno. H. Burford,
Chief Justice.

Attest:

Benj. F. Hegler, Clerk Supreme Court.

SUPREME COURT, 1899, SPECIAL SESSION. -- MARCH 11, SECOND DAY.

#738,

Isaac Lowenstein,
Appellant,
vs.M. E. Young,
Appellee.

And now this cause comes on for decision by the court upon the briefs, record and argument of counsel therein. And the court having considered said cause and being fully advised in the premises finds that the judgment of the lower court should be reversed and cause remanded thereto with directions to dissolve the injunction and award to the plaintiff a new execution against the lands levied upon. All of the Justices concurring.

Opinion by McAtee, J.

#748,

H. H. Shultz, Appellant,
vs.John Barrows, Sheriff of
Oklahoma County, O.T., and
H. Duffy,
Appellees.

And now this cause comes on for decision by the court upon the briefs and records therein. And the court having duly considered said cause, and being fully advised in the premises finds that the judgment of the lower court therein should be affirmed.

It is therefore ordered and adjudged by the court that the decision of the lower court in this cause be and the same is hereby affirmed. All of the Justices concurring.

Opinion by McAtee, Justice.

#675,

The Board of Education of the
City of El Reno,
Appellant,
vs.Joseph Hobbs, (Infant) by his
next friend, W. W. English,
Appellee.

And now this cause comes on for decision by the court upon the record and briefs of counsel therein. And the court having duly considered the same and being fully advised in the premises finds that the judgment of the court below should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed, and plaintiff in error is directed to admit the defendant Hobbs (infant) to all the school privileges and rights which are provided in the peremptory writ of mandamus in this cause.

Opinion by McAtee, Justice. All of the Justices concurring.

#587,

James Lucas and W. D. Porch,
Appellants,
vs.C. E. Brakefield,
Appellee.

And now this cause comes on for decision by the court upon the record and briefs submitted therein. And the court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed. Opinion by McAtee, Justice. All of the Justices concurring except Burford C. J. who presided in the trial of the cause below.

SUPREME COURT, 1899, SPECIAL SESSION. -- MARCH 11, SECOND DAY.

#810,

John Ten Gate,
Appellant,
vs.

M. E. Sharp,
Appellant,

And now this cause comes on for decision by the court upon the record and briefs submitted therein. And the court having duly considered the same and being fully advised in the premises finds that the order of the court below granting a new trial of this cause should be affirmed.

It is therefore ordered and adjudged by the court that the order of the lower court in granting a new trial in this cause be and the same is hereby affirmed.

Opinion by McAtee, Justice. All of the Justices concurring.

#764,

Caroline Hess,
Appellant,
vs.

W. W. Trigg, and Wm. Hall Trigg,
partners, as Hall & Trigg,
Appellees.

And now this cause comes on for decision by the court upon the record and briefs submitted therein. And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the lower court should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed.

Opinion by McAtee, Justice. All the Justices concurring except Tarsney, Justice, who presided in the cause below.

#644,

H. C. Masters, Sheriff
of Kay County,
Appellant,
vs.

Robert R. Teller,
Appellee.

And now this cause comes on for decision by the court upon the petition for a rehearing of the same, and upon the records, briefs and arguments of counsel submitted therein. And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the lower court should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed.

Opinion by McAtee, Justice. All the Justices concurring.

#818,

J. S. Hall,
Appellant,
vs.

Oren A. Powell, and
Elderson Powell,
Appellees.

And now this cause comes on for decision by the court upon the record and briefs of counsel submitted herein. And the court having duly considered said cause and being fully advised in the premises finds that the judgment of the lower court should be affirmed.

SUPREME COURT, 1899, SPECIAL SESSION. -- MARCH 11, SECOND DAY.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed.

Opinion by McAtee, Justice. All the Justices concurring.

#621,
Ben Price, et al,
Appellants,
vs.
The Board of County Commissioners
of Pawnee County,
Appellee.

#622,
J. P. Johnson, et al,
Appellants,
vs.
The Board of County Com-
missioners of Pawnee County,
Appellee.

#623,
John W. Florer, et al,
Appellants,
vs.
The Board of County Com-
missioners of Pawnee County,
Appellee.

And now these causes come on for decision by the court upon the affidavits of defendants in error filed in support of their respective motions to dismiss the appeals in said causes. And the court having duly considered said affidavits, and being fully advised in the premises finds that the above causes, although separate and distinct from each other, involve the same question of practice, and should be disposed of altogether; that since the plaintiffs in error filed their respective appeals, the matters involved in each of the above entitled causes have been fully settled and compromised, and that each and all of these causes should now be dismissed.

It is therefore ordered and adjudged that each and all of the above entitled causes be and the same are hereby dismissed.

Opinion by Burwell, Justice. All the Justices concurring.

#758,
N. F. Frazier,
Appellant,
vs.
Edward Prince,
Appellee.

And now this cause comes on for decision by the court upon the record and briefs submitted therein. And the court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed at the cost of appellant.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of appellant.

Opinion by Burwell, Justice. All of the Justices concurring.

#822,
Robert Morrow,
Appellant,
vs.
Mary E. Smith,
Appellee.

And now this cause comes on for decision by the court upon the records and briefs of counsel submitted therein.

SUPREME COURT, 1899, SPECIAL SESSION. -- MARCH 11, SECOND DAY.

And the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed at the cost of appellant.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed at appellant's cost.

Opinion by Burwell, Justice. All of the Justices concurring except Burford, C.J., not sitting.

#763,
Fred Horn,
Appellant,
vs.
The Territory of Oklahoma,
Appellee.

And now this cause comes on for decision by the court upon the records, briefs and oral argument of counsel therein. And the court having duly considered the same, and being fully advised in the premises finds that the judgment and sentence of the trial court in this cause should be reversed, and a new trial granted.

It is therefore ordered and adjudged by the court that the judgment and sentence of the trial court is hereby reversed, vacated and set aside, and a new trial granted; and the Warden of the Territorial penitentiary at Lansing, Kansas, or any other person who may have the defendant in charge, on presentation of a copy of this opinion duly certified by the clerk of this court, by the sheriff of Canadian county, is hereby directed to deliver the body of said Fred Horn to him, the said sheriff aforesaid, who shall confine said defendant in the common jail of Canadian county, there to await another trial, unless otherwise discharged according to law.

Opinion by Burwell, Justice. All of the Justices concurring except Burford, C. J., not sitting.

#727,
Burton S. Barnes and John Dalton
as Barnes & Dalton,
Appellants,
vs.
J. W. Lynch, The Ponca City Land
and Improvement Company (a Corporation)
Appellee.

Comes now George S. Green of counsel for appellants in this cause, and asks permission of the court to file argument herein. And said permission is by the court granted.

ORDER FIXING TERMS IN THE FIFTH JUDICIAL DISTRICT.

Ordered by the Court:, That terms of court be fixed for the Fifth Judicial District as follows,
to-wit:

At Alva, Woods County, Monday, April 17,
At Taloga, Dewey County, Tuesday, May 9,
At Pond Creek, Grant County, Monday, May 22,
At Enid, Garfield County, Monday, May 29.

It is further ordered that all orders heretofore made in conflict with the above, are herewith vacated and set aside.

It is further ordered that all causes at issue and standing for trial at the term heretofore fixed shall stand for trial and determination at the term provided for by this order. And all orders, writs and summonses of every character returnable to the terms of court as heretofore fixed shall be returnable and stand for determination at the term provided for in this order. And all persons under bond or recognizance to appear at any term of court as heretofore fixed, shall be required to appear on the day as fixed in this order.

And it is further ordered that the Clerk of the Supreme Court send a certified copy of this order to the Clerk of the District Court of each district of the Territory.

Attest: Benj. F. Hegler, Clerk Supreme Court.

Jno. H. Burford, Chief Justice.
(Ordered that special session be now finally adjourned.)

SUPREME COURT PROCEEDINGS IN VACATION.

SUPREME COURT OF THE UNITED STATES.

No. 661, October Term, 1898.

Richard F. Caffrey, as County Clerk, &c.,
Plff in error,
vs.

The Territory of Oklahoma ex rel,
Harper S. Cunningham, Attorney General,

On consideration of the motion for leave to give a supersedeas bond herein,

It is now here ordered by the Court that said motion be, and the same is hereby, granted, said bond to be in the penal sum of \$2,000, conditioned according to law, and to be approved by the clerk of this court.

March 13, 1899.

A true copy,

Test: James H. McKenney

Clerk of the Supreme Court
of the United States.

(SEAL)

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

Territory of Oklahoma, on the relation
of W. R. Taylor, County Attorney of
Oklahoma County, in the Territory of
Oklahoma, Plaintiff in error,
vs.

Richard F. Caffrey, County Clerk of said County
of Oklahoma, in the Territory of Oklahoma,
Defendant in error.

ALLOWANCE OF APPEAL.

Now, to-wit, on this 8th day of April, 1899, it is ordered that the appeal in said above entitled action be allowed as prayed for.

Jno. H. Burford
Chief Justice Supreme Court Oklahoma
Territory.

Attest:

Benj. F. Hegler,

(SEAL)

Clerk Sup. Ct.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

Territory of Oklahoma, on the relation
of W. R. Taylor, County Attorney of
Oklahoma County, in the Territory of Oklahoma,
Plaintiff in error,
vs.

Richard F. Caffrey, County Clerk of said County
of Oklahoma, in the Territory of Oklahoma,
Defendant in error.

ORDER ALLOWING WRIT OF ERROR.

Now, on this 8 day of April, 1899, came the defendant in error, by his attorneys, and filed herein and presented to me, as Chief Justice of the Supreme Court of said Territory, his petition praying for the allowance of a writ of error intended to be urged by him in the Supreme Court of the United States, and praying also that a transcript of the record of the proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent to the Supreme Court of the United States, and that such other proceedings be had as may be proper in the premises.

SUPREME COURT PROCEEDINGS IN VACATION.

On consideration whereof, I, Jno. H. Burford, Chief Justice, as aforesaid, do hereby allow the writ of error prayed for.

Witness my hand this 9 day of April, 1899.

Jno. H. Burford

Chief Justice, Supreme Court, Oklahoma Territory.

In re,
Supersedeas Bond of Richard F. Caffrey,

Know all men by these presents, that we, Richard F. Caffrey, County Clerk of Oklahoma County, in the Territory of Oklahoma, as principal, and Azor J. Henthorne, T. J. Griffith, Ed. L. Dunn, Whit M. Grant, as sureties, are held and firmly bound unto the Territory of Oklahoma in the sum of Two thousand five hundred (\$2,500.00) dollars, lawful money of the United States of America, for the payment of which well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

The condition of the above obligation is such that,

Whereas, at a regular term of the Supreme Court of the Territory of Oklahoma held in the city of Guthrie, in said Territory, on February 11th, 1899, in a suit therein pending between the Territory of Oklahoma on the relation of W. R. Taylor, County Attorney of Oklahoma county in the Territory of Oklahoma, as plaintiff in error, and Richard F. Caffrey, County Clerk of said County of Oklahoma in the Territory of Oklahoma, as defendant in error, a judgment was rendered against the said Richard F. Caffrey, reversing the judgment of the court below therein and ordering that a peremptory writ issue from said Supreme Court to the said Richard F. Caffrey, as said County Clerk, directing and commanding him to do and perform the acts and things prayed by the relator in the petition in said cause;

And, whereas, on March 30th, 1899, pursuant to said judgment a peremptory writ of mandamus issued out of said court directed to said Richard F. Caffrey, as said County Clerk, commanding him that he add to the assessed valuation of the property of each person in the county of Oklahoma, Oklahoma Territory, for the year 1897, the percentage of twenty-three percentum of the assessed valuation of the property in said county returned for the year aforesaid, service of which writ upon said Richard F. Caffrey was made March 31st, 1899;

And, whereas, said Richard F. Caffrey, as said County Clerk, has appealed said cause to the Supreme court of the United States, which appeal has been allowed by the Chief Justice of the Supreme Court of said Territory, and has obtained a writ of error and has sued out a writ of error in said cause from the Supreme Court of the United States to the Supreme Court of said Territory, which writ of error has been allowed by the Chief Justice of the Supreme Court of said Territory, and has lodged in the office of the Clerk of the Supreme Court of said Territory a copy of said appeal and also a copy of said writ of error, the purpose of which appeal and writ of error is to reverse the said judgment in the aforesaid cause;

And, whereas, citations have been duly issued to the said Territory of Oklahoma on said appeal and on said writ of error, citing and admonishing the said territory to be and appear at the Supreme Court of the United States to be holden at the city of Washington on the Sixth day of May, A.D. 1899.

Now, if the said Richard F. Caffrey, as said County Clerk, shall prosecute his said appeal and writ of error to effect and answer all damage and costs if he fail to make his plea good, then the above obligation to be void; otherwise to remain in full force.

SUPREME COURT PROCEEDINGS IN VACATION.

In witness whereof we have hereunto set our hands this ___ day of April, in the year of our Lord one thousand eight hundred and ninety-nine.

Executed in the presence of

R. E. Stafford,
A. G. Caffrey.

Richard F. Caffrey,
T. J. Griffith,
Ed. L. Dunn,
Azor J. Henthorne,
Whit M. Grant.

Approved by,

Jno. H. Burford

Chief Justice.

Attest:

Benj. F. Hegler,
Clerk Sup. Ct.

Territory of Oklahoma,)
County of Oklahoma.) ss.

Before me Deputy District Clerk, within and for said county and Territory, personally appeared Azor J. Henthorne, T. J. Griffith, Ed. L. Dunn, Whit M. Grant, who being duly sworn, each for himself upon his oath says, that he is worth the sum of Two thousand five hundred (\$2,500.00) dollars over and above all of his just debts, liabilities and exemptions; and that he is a resident and householder in said County and Territory.

Whit M. Grant,
T. J. Griffith,
Azor J. Henthorne,
Ed. L. Dunn.

Subscribed in my presence and sworn to before me this 14 day of April, in the year of our Lord one thousand eight hundred and ninety-nine.

M. McKinley

Deputy Clerk U.S.

District Court.

(SEAL)

ORDER ASSIGNING JUDGE TO THE SECOND JUDICIAL DISTRICT.

BE IT REMEMBERED, That at a special session of the Supreme Court of the Territory of Oklahoma, on the Eleventh day of March, 1899, the same being the Thirteenth Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; the Honorables John L. McAttee, Bayard T. Hainer, Benj. F. Burwell and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; S. L. Overstreet, U. S. Attorney; H. C. Thompson, U. S. Marshal; and John C. Orner, Court Crier; Public proclamation of the opening of the court for the transaction of business having been duly made by the court crier, the following (among other) proceeding was had, to-wit:

It is ordered by the Court, That Associate Justice Clinton F. Irwin be and he is hereby assigned to the Second Judicial district of the Territory of Oklahoma.

It is further ordered, That the Clerk transmit a certified copy of this order to each of the District Courts of the Territory.

Attest:

Jno. H. Burford,
Chief Justice.

Benj. F. Hegler,
Clerk Supreme Court.

(This belongs to proceedings of March 11th, 1899.)

SUPREME COURT PROCEEDINGS IN VACATION.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

In the matter of the appointment of an)
 Assistant to compile, edit, index and)
 report the decisions of the Supreme)
 Court for publication.)

O R D E R.

Whereas, By act of the Fourth Legislative Assembly of the Territory of Oklahoma, entitled, "An Act in relation to the publication of the Reports and Decisions of the Supreme Court of the Territory of Oklahoma, and creating a Territorial Library Fund, and for other purposes" Approved March 12, 1897, it is provided that,

For the purpose of compiling, indexing, and reporting said Supreme Court decisions for publication as provided by law, the Chief Justice is authorized and empowered to appoint a competent assistant to report, compile, edit, and index said Supreme Court decisions, at a compensation not to exceed \$300, per volume," and

Whereas, there are now on file in the office of the Clerk of this Court sufficient decisions of said Court for the publication of another volume of said Supreme Court Reports, and which should be published without further delay:

Now, therefore, I, Jno. H. Burford, Chief Justice of the Territory of Oklahoma, by virtue of the authority vested in me as Chief Justice of the Territory of Oklahoma, by said Act of the Legislature, do hereby appoint and commission Benj. F. Hegler my assistant to "report, compile, edit and index" the decisions of the Supreme Court of Oklahoma Territory to be contained in volume VII of said reports, and fix the compensation of the said Benj. F. Hegler, for the services so rendered, at three hundred dollars for said Reports, so reported, edited, compiled, and indexed.

Done at my Chambers, in the city of Guthrie, Territory of Oklahoma, this 27th day of April, 1899.

Jno. H. Burford.
 Chief Justice.

Attest:

(Seal) Benj. F. Hegler.
 Clerk Supreme Court.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

In the matter of the letting of the)
 contract for the printing and pub-)
 lishing of volume No. 7, of the)
 Supreme Court Reports of the Ter-)
 ritory of Oklahoma.)

And now, to-wit, on this the 28th day of April, A.D. 1899, the matter of letting the contract for the publication of Volume Seven, Supreme Court Reports for the Territory of Oklahoma, coming on to be heard by me, at Chambers in the City of Guthrie,

And it appearing from the proofs on file that proper and sufficient notice by publication has heretofore been had, as provided by Section 4, of Chapter 75, of the laws of Oklahoma, and which said Chapter is entitled, "An Act in relation to the publication of the reports and decisions of the Supreme Court of the Territory of Oklahoma, and creating a Territorial Library fund;" which said publication notice, together with proof of publication thereto attached are made a part of this order and filed therewith, and separately designated "A" and "B".

Territory of Oklahoma, Logan County, ss.

C. S. Brangle of lawful age, being first duly sworn, deposeth and sayeth that he is Business Manager of THE GUTHRIE DAILY LEADER, a newspaper printed and published in Logan County, Territory of Oklahoma, and that a notice, of which a true copy is hereto attached, was published in the regular and entire issue of each number of said paper for 2 consecutive weeks, the first publication being made as aforesaid on the 20th day

SUPREME COURT PROCEEDINGS IN VACATION.

of April, A.D. 1899.

C. S. Brengle.

Subscribed and sworn to before me this 29th day of April, A.D. 1899.

Frank E. Lucas.
Notary Public.

Com. Ex. Ap'l 5-1902.

NOTICE.

The undersigned will receive sealed proposals until 10 o'clock a.m., Saturday, April 29th, 1899, for printing, binding and delivering one thousand volumes of volume 7, Oklahoma reports. The work to be done, and the reports and plates delivered and paid for as provided in chapter 75, statutes of Oklahoma, 1893. Specifications will be furnished prospective bidders on application to the clerk of the Supreme Court. The right is reserved to reject any or all bids.

Jno. H. Burford.

Chief Justice Supreme Court.

Territory of Oklahoma,) ss.
Logan County.)

Eugene Gill being first duly sworn, deposeth and saith that he is printer of the Oklahoma State Capital, a newspaper printed and published in Logan County, Territory of Oklahoma, and that a notice, of which a true copy is hereto attached, was published in the regular and entire issue of each number of said Oklahoma State Capital for 12 consecutive days; the first publication being made, as aforesaid, on the 16 day of April, A.D., 1899, and the last on the 29 day of April, A.D., 1899.

Eugene Gill.

Subscribed and sworn to before me, this 29 day of April, A.D., 1899.

F. A. Derr,
Notary Public.

My Commission Expires, Oct. 27, 1902.

NOTICE.

The undersigned will receive sealed proposals until 10 o'clock, a.m. Saturday, April 29th, 1899, for printing, binding and delivering one thousand volumes of Volume 7, Oklahoma Reports. The work to be done and the reports and plates delivered and paid for as provided in chapter 75, Statutes of Oklahoma, 1893. Specifications will be furnished prospective bidders on application to the clerk of the supreme court. The right is reserved to reject any or all bids.

Jno. H. Burford, Chief Justice.

And it further appearing that there is on file and has been received as bid for the publication of said reports the following proposition to publish said report, which said proposition is all of the bids received by me, as Chief Justice, or by the Clerk of the Supreme Court for the publication of Volume Seven, and which said bid is in words and figures as follows, to-wit:

Guthrie, Oklahoma, 4/29, '99.

Hon. John H. Burford,
Chief Justice,

Guthrie, Okla.,

Dear Sir:- We will furnish 1,000 copies of Volume Seven, Supreme Court Reports of Oklahoma, according to the specifications on file in the office of the Supreme Court Clerk, for three thousand dollars--this to include

SUPREME COURT PROCEEDINGS IN VACATION.

the entire work and delivery of stereotype plates, as required by law; said work to be first class in every way, and delivered with all possible promptness.

Enclosed find check for Fifty dollars, conditioned on faithful performance of this bid.

Very truly,

State Capital Printing Co.,

F. H. Greer,

Manager.

And upon examination of said bid, I find that the same is in compliance with section four, of chapter seventy-five, supra, and that the bid of the State Capital Printing Co., a concern doing business in the city of Guthrie, Oklahoma Territory, is the lowest and best bid received for the publication of said Reports, and that by the terms of said bid, the State Capital Printing Co., agrees to enter into a contract whereby it undertakes to publish said reports according to the plans and specifications heretofore on file, and with reference to which, said bid was made for the sum of Three Thousand Dollars, to be paid in Territorial warrants drawn upon the Territorial Treasurer of Oklahoma Territory, as provided by section six of chapter seventy-five, supra. And after a consideration of the above and foregoing matters, the bid of the said State Capital Printing Co., for the publication of the said Reports is hereby accepted, conditioned that the said State Capital Printing Co., shall enter into a contract, to be executed on this day, whereby the State Capital Printing Co. more particularly undertakes and binds itself to perform the conditions of the bid which is here and now accepted.

IN TESTIMONY WHEREOF, I have hereunto set my hand, this the 29th day of April, A.D. 1899.

Jno. H. Burford,

Chief Justice of the Supreme Court
of the Territory of Oklahoma.

And now on this 29th day of April, A.D. 1899, the matter of the letting of the contract for the publication of Volume Seven of the Supreme Court Reports of Oklahoma Territory coming on further to be heard, the successful bidder, the State Capital Printing Co., being present by manager thereof, upon the matter of the said specific contract to be entered into between the said State Capital Printing Co. for the publication of said reports, and the Chief Justice of the Supreme court, and said parties, after the consideration of said contract, and its terms, each affix their signatures thereto.

And it is ordered that the Clerk of the Supreme Court enter of record the contract so executed, together with all other matters considered in connection therewith.

IN TESTIMONY WHEREOF, I have hereunto set my hand, this the 29th day of April, 1899.

Jno. H. Burford,

Chief Justice of the Supreme Court
of the Territory of Oklahoma.

Territory of Oklahoma, Logan County.

THIS CONTRACT, Made and entered into this 29th day of April, 1899, by and between John H. Burford, Chief Justice of the Supreme Court of the Territory of Oklahoma, first party, and the State Capital Printing Co. publishers, second party:

WITNESSETH, First: That in pursuance of Section 4, of Chapter 75, Oklahoma Statutes, 1893, the first party hereby contracts with the second party for the publication of 1000 volumes of Volume Seven, of the Oklahoma Supreme Court Reports, the said second party being the lowest bidder for publishing the same.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

Second: That said reports and each of them shall be printed, bound, and labelled in all respects as stipulated in the specifications hereto attached, marked "EXHIBIT A", and made a part of this contract, as fully to all intents and purposes as if the same were copied verbatim herein.

Third: That for the publication of the 1000 volumes of said reports as above specified, the second party shall be paid the sum of Three Thousand Dollars, in Territorial warrants, to be drawn and approved as specified in Section 6, of said Chapter 75, when said Reports shall be published and delivered to the Territorial Librarian, after having first been approved and accepted by the first party.

Fourth: It is understood and agreed between the parties hereto, that if said printing and binding of said book, or any of said 1000 volumes, in any respect falls short of the specifications above referred to, the first party shall have the right to reject or disapprove one or more of the entire number of said volumes, and in that event, the second party shall receive no pay or compensation whatever from the territory for said work.

Fifth: That said second party herein agrees to furnish the first party the title page of said volume at the earliest possible date, and other data necessary in order to enable the first party to copyright said volume, as specified that he shall do in Section 5, of said Chapter 75.

Sixth: That it is understood and agreed that the second party shall make matrices and stereotyped plates of said volumes, and shall properly box the same and deliver them to the Territorial Librarian, at his office in Guthrie, Oklahoma Territory, free of cost, and that said property shall become the property of the Territory of Oklahoma.

Seventh: That it is further understood and agreed between the parties hereto that the second party shall not make more than one set of matrices and stereotyped plates for the publication of said volumes, and will not publish any additional volumes of said Reports in addition to the 1000 volumes, either for his own use, or for the use of any one else, without the permission of the first party, and that if the said second party shall violate this article of this contract in any respect, he shall forfeit to the Territory of Oklahoma the sum of \$2,000 as liquidated damages, and that the same may be recovered in a proper action in the name of the Territory of Oklahoma.

Eighth: That said one thousand copies of Volume Seven shall be published and delivered to the Territorial Librarian by the second party within ninety days from the date of the delivery to said second party of the copy for said Supreme Court Reports.

Witness the hands of the parties hereto, the day and date first above written.

Jno. H. Burford, Chief Justice
State Capital Ptg. Co.
By F. H. Greer Manager.

EXHIBIT "A"

S P E C I F I C A T I O N S .

For Printing, Publishing, and binding Volume 7, Supreme Court Reports.

Paper.

The reports shall be printed on extra S. & S. - c, or paper equally as good, white book paper. Size, 25 x 38, weight, 60 lbs. to ream.

Type.

The body of the opinions shall be set in ten point Roman type face to measure not less than 14 nor more than 15 ems. to the lower case alphabet. Syllabus to be set in "8 point type", face to measure not less than 14 nor more than 16 ems. to the lower case alphabet. All matter except extracts to be leaded with 6-to-pica leads; extracts to be set solid. Indexes to be set in type to correspond with the syllabus. Table of cases in type same size as text of Report. Matrices and stereotype plates to be made by successful bidder and deposited with the Territorial Librarian in accordance with the law of the Territory.

SUPREME COURT PROCEEDINGS IN VACATION.

Binding.

The reports shall be hand sewed, stitched with five (5) stitches, and bound in full law sheep, boards to be laced on, and to be labelled in accordance with the provisions of section 2, Chapter 75, Statutes of Oklahoma of 1893. Book when complete to contain not less than 750, nor more than 800 pages. Style of composition and typography to be the same as and equal to that of the 6th Oklahoma Report.

Bids.

Each bid must be accompanied by a deposit of \$50. as an evidence of good faith, together with a specimen of the quality of paper, and an impression of the type designated in these specifications, and the successful bidder is required to submit proof for revision as the work proceeds, to the person designated by the Chief Justice, to edit said Reports, at the office of the Clerk of the Supreme Court. Bidder to read and correct first proof, before submitting proof sheets to editor of Report, and to submit to editor proof sheets after all corrections, as often as may be necessary to insure accuracy of style, arrangement and typography, and to furnish the editor such proof sheet copies of the syllabi of cases as he may need.

It is understood and agreed that parties making bids for the above printing, publishing, and binding of Volume Seven, of the Supreme Court of the Territory of Oklahoma, do so with the express provision that if the work of the successful bidder does not agree with the standard as provided in the specifications herein, the work is to be rejected and no compensation allowed.

B. F. Hegler, Clerk of Supreme Court, will be designated to report, compile, edit, and index said report, and all work must be done under his supervision and inspection, and subject to his approval and acceptance. The bidder entering into a contract for the performance of said work shall execute a bond with at least two resident sureties in the sum of Three Thousand Dollars, for the completion of said work according to the terms of contract. Said bond and sureties to be approved by the Chief Justice.

B O N D.

KNOW ALL MEN BY THESE PRESENTS:

That The State Capital Printing Company as principal, and F. H. Greer and J. W. McNeal as sureties, are held and firmly bound to the Territory of Oklahoma in the penal sum of \$3000, lawful money of the United States, well and truly to be paid.

The condition of this obligation is that the State Capital Printing Company has this day entered into a contract with John H. Burford, as Chief Justice of the territory of Oklahoma, for the printing, publishing, and delivery of 1000 volumes of Volume Seven, of the Reports of the Supreme Court of the Territory of Oklahoma, and for making and delivering matrices and stereotyped plates, and delivering same to the Territorial Librarian of the Territory of Oklahoma; said work to be done and completed as provided in a written contract on file with the Clerk of the Supreme Court of said Territory.

NOW, If the said State Capital Printing Company shall well and truly perform all the conditions and requirements of said contract, and deliver said books, plates, and matrices, as provided in said contract, and not violate any of the provisions of the same, this obligation shall be void; otherwise, to be and remain in full force and effect.

IN WITNESS WHEREOF, we have hereunto set out hands, this 29th day of April, 1899.

State Capital Ptg. Co.
By F. H. Greer, Manager,

F. H. Greer,
J. W. McNeal.

Examined and approved, this 29 day of April, 1899.

Jno. H. Burford,
Chief Justice.

SUPREME COURT, JUNE, 1899, TERM.--JUNE 5, FIRST JUDICIAL DAY.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Fifth day of June, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the June, 1899 term of said court, pursuant to law, this being the First Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices John L. McAtee, Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin; Benj. F. Hegler, Clerk; Samuel L. Overstreet, U.S. Attorney; Canada H. Thompson, U.S. Marshal; John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court, the following proceedings were had to-wit:

In re,
Admission of Attorneys,

Comes now Edgar W. Jones, and moves the admission of I. H. Lookabaugh of the District Court of Blaine County, O.T., to practice in the Supreme Court.

Comes now John H. Cotteral, and moves the admission of W. C. Tetrick, an attorney of the bar of the District Court of Kay County, O.T., to practice in the Supreme Court.

Comes now T. G. Chambers and moves the admission of D. S. Pili, an attorney of the District Court of Grant County, O.T., to practice in the Supreme Court.

Comes now James R. Keaton, and moves the admission of H. I. Wasson, an attorney of the District Court of Grant County, O.T., to practice in the Supreme Court.

Comes now James R. Keaton, and moves the admission of Henry R. Berry, a member of the bar of Washita County, O.T., to practice in the Supreme Court;

And the attorneys' oath is now administered to the said applicants, and they are admitted to practice in the Supreme Court of the Territory of Oklahoma, and all the inferior courts thereof.

#753,
M. H. Johnson,
Appellant,
vs.

The Board of County Commissioners
of Pawnee County, O.T.
Appellee.

#754,
R. R. Poe,
Appellant,
vs.

The Board of County Commissioners
of Pawnee County, O.T.
Appellee.

#755,
Mrs. Logan H. Roots,
Appellant,
vs.

The Board of County Commissioners
of Pawnee County, O.T.
Appellee.

Comes now John D. DeBois, and asks the order of the court for the return of the papers belonging to the Probate Court of Pawnee County, in the above entitled causes.

It is therefore ordered by the Court that the original papers belonging to the Probate Court of Pawnee County, in the above entitled causes be returned to said Probate Court.

SUPREME COURT, JUNE, 1899, TERM,--JUNE 5, FIRST JUDICIAL DAY.

#885,
Oklahoma Sanitarium Company
(a corporation) Appellant,
vs.

Thomas S. Galbraith,
Appellee.

Ordered by the court that three days be given for reply briefs herein.

#861,
John W. Archer and
Robert Crawford, Appellant,
vs.

The United States,
Appellee.

Ordered by the Court that ten days be allowed plaintiff to file his briefs herein, and that defendant have leave to file answer briefs.

#870,
Ed Ellis, Appellant,
vs.

The United States,
Appellee.

Ordered by the Court that this cause be passed on first call.

#544,
The Territory of Oklahoma, Appellant,
vs.

Andrew Cooper, O. A. Mitscher,
T. W. Williamson, John Cooper,
Appellees.

Ordered by the Court that this cause be continued as per stipulation.

#760,
John Young, Appellant,
vs.

The Territory,
Appellee.

Ordered by the Court that this cause be now submitted, with ten days to the Territory for briefs, and to be taken on briefs.

#803,
Roy Parker, Appellant,
vs.

The Territory,
Appellee.

Ordered by the Court that 30 days be allowed plaintiff in error to file briefs herein, and ten days the Attorney General for reply briefs; and that this cause be submitted.

#827,
Charles W. Bailey, and
Harry Plummer McCord, Appellants,
vs.

The Territory,
Appellee.

Ordered by the Court that this cause be taken on plaintiffs' briefs.

S U P R E M E C O U R T, J U N E, 1899, T E R M. -- J U N E 5, F I R S T J U D I C I A L D A Y.

#841,
Charles Richie, Appellant,
vs.

The Territory, Appellee.

Ordered by the Court that this cause be taken on motion to dismiss.

#844,
John Walburn, Appellant,
vs.

The Territory, Appellee.

Ordered by the Court that this cause be taken on briefs.

#845,
John Foust, Appellant,
vs.

The Territory, Appellee.

Ordered by the Court that this cause be taken on briefs.

#643,
The Town of Norman, Appellant,
vs.

M. J. Ince, Appellee.

Ordered by the Court that this cause be taken on plaintiff's briefs.

#686,
Carl Crawford, Appellant,
vs.

The Board of County Commissioners
of Noble County, Appellee.

Ordered by the Court that this cause be passed on first call.

#741,
Jonas H. Cook, Jonas M. Berry, et al,
Appellants,
vs.

Emma D. McCord, Nelson F. Cheadle, et al,
Appellees.

Ordered by the Court that this cause be passed on first call.

#742,
D. R. Fant, Appellant,
vs.

J. Y. Campbell and
J. M. Stovall, Appellees.

Ordered by the Court that this cause be passed on first call.

#751,
Mary C. Hardwick and
W. P. Hardwick, Appellants,
vs.

C. T. Atkinson, Appellee.

Ordered by the Court that this cause be taken on briefs.

S U P R E M E C O U R T, J U N E, 1899, T E R M.--J U N E 5, F I R S T J U D I C I A L D A Y.

#752,
Robert Sutherland,
as Assignee, Appellant,
vs.
John H. Smith, J. W.-
Browning, et al,
Appellees.

Ordered by the Court that this cause be taken on motion to dismiss.

#756,
Robert L. Winebrenner,
Appellant,
vs.
Edward C. Forney,
Appellee.

Comes now the plaintiff in error by his counsel, in open court, and moves to dismiss this cause at his cost.

It is therefore ordered by the court that this cause be and is now hereby dismissed at the cost of plaintiff in error.

#757,
J. G. Lookabaugh,
Appellant,
vs.
Frank K. Bell,
Appellee.

Ordered by the Court that this cause be now taken on motion to dismiss.

#757,
J. E. Petrie,
Appellant,
vs.
J. N. Coulter, as Receiver
of the Farmers' and Citizens'
Bank,
Appellee.

Ordered by the Court that this cause be continued by agreement, for the term.

#800,
G. M. Carpenter,
Appellant,
vs.
W. F. Pierce, Sheriff Kay County,
Bill Myers and Dick Myers, Deputy
Sheriffs Kay County,
Appellees.

Ordered by the Court that this cause be now taken on plaintiff's briefs.

#800, Herbert W. Wheeler and
Charles A. Barrett, as Executors
Last will of William G. Wheeler
deceased,
Appellant,
vs.

Board of County Commissioners
of the County of Washita, O.T.
Appellee.

Ordered by the Court that ten days be allowed plaintiffs in error to file their briefs herein, and ten days to defendants in error to file answer briefs, and that the cause be submitted.

SUPREME COURT, JUNE, 1899, TERM.--JUNE 5, FIRST JUDICIAL DAY.

#808,
Lewis Humphrey, Grant Humphrey,
Lewis Wolf, E. A. Davis, J. W.
Watkins, James H. Lowery, and
C. P. Blakeley,

Appellants,

vs.

Maggie Hunt, Appellee.

Ordered by the Court that this cause be now taken on merits and motion to dismiss; and submitted on briefs.

#809,
Fuller & Fuller Company,
(a corporation)

Appellants,

vs.

George P. Johnston,
Appellee.

Ordered by the court that this cause be passed on first call.

#825,
C. E. Brakefield,

Appellant,

vs.

James Lucas,
Appellee.

Ordered by the Court that this cause be taken on plaintiff's briefs.

#828,
M. Friedman,

Appellant,

vs.

Maurice Weisz, Appellee.

Ordered by the Court that this cause be taken on briefs.

#829,
David S. Huber,

Appellant,

vs.

J. A. and C. C. Zimmerman,
Appellee.

Ordered by the Court that this cause be taken on briefs.

#830,
E. S. Wiggins, as County
Treasurer, et al,

Appellant,

vs.

The Atchison, Topeka and
Santa Fe Ry., Co. Appellee.

Comes now Fred M. Elkin, into open court, and enters his appearance for defendant in error herein and is allowed five days to file briefs.

#831,
John Turner and
Robert Turner,

Appellant,

vs.

S. S. Comer, Appellee.

Ordered by the Court that this cause be taken on motion to dismiss.

S U P R E M E C O U R T, J U N E, 1899, T E R M. -- J U N E 5, F I R S T J U D I C I A L D A Y.

#832,
Fred Huster, Appellant,
vs.

J. W. Wynn, Appellee.

Ordered by the Court that this cause be now taken on plaintiff's briefs.

#836,
J. B. Monroe and
Ralph Waldo, partners
as Monroe Fruit Co.,
Appellants,
vs.

T. C. Bottom & Co.,
Appellees.

Ordered by the Court that this cause be passed on first call.

#837,
Ransom Payne and
Geneva Z. T. Payne,
Appellants,
vs.

Long Bell Lumber Co
and the M.E. Church
South, of Enid,
Appellees.

Ordered by the Court that this cause be taken on briefs.

#838,
Augustus G. Heaton,
Appellant,
vs.

Adelaide G. Heaton,
Appellee.

Ordered by the Court that this cause be taken on motion to dismiss.

#840,
William M. Gunn, Appellant,
vs.
Charles F. Harris,
Appellee.

Ordered by the Court that this cause be now taken on motion to dismiss.

#849,
M. Rawlings,
Appellant,
vs.

John A. Hanley, et al,
Appellees.

Ordered by the Court that this cause be now taken on motion to dismiss.

#851,
Fred R. Janes,
Appellant,
vs.

Citizens Bank of North Enid,
Appellee.

Ordered by the court that this cause be now taken on briefs.

#853,
Richard H. Wade, Appellant,
vs.
Edward F. Gould, Appellee.

Ordered by the Court that this cause be now taken on briefs.

S U P R E M E C O U R T, J U N E, 1899, T E R M.--J U N E 5, F I R S T J U D I C I A L D A Y.

#854,
Elmer E. Carmichael,
Appellant,
vs.

W. F. Pierce and
A. O. Lund, Appellees.

Ordered by the Court that this cause be passed on first call.

#855,
Wyllie Brown,
Appellant,
vs.

Caroline Brown,
Appellee.

Ordered by the Court that this cause be now dismissed for failure to file briefs.

#856,
Rosa Blackwell, and
M. J. Blackwell,
Appellants,
vs.

M. J. Holt, Appellee.

Ordered by the Court that this cause be taken on motion to dismiss.

#857,
Joseph J. Nemire,
Appellant,
vs.

Harry C. C. Stiles,
Appellee.

Comes now counsel for defendant in error and asks time to file briefs, and ten days are allowed to file the same; and it is ordered that this cause be submitted.

#859, George H. Johnson,
Appellant,
vs.

The J. J. Douglas Company,
Appellee.

Ordered by the Court that this cause be now taken on briefs.

#863,
Abraham Parker,
Appellant,
vs.

Reed C. Crawford,
Appellee.

Ordered by the Court that five days be allowed to plaintiff in error to file his briefs herein, and ten days to defendant in error to file his briefs.

#864,
The City of Gutarie,
Appellant,
vs.

The T. W. Harvey Lumber Co.
Appellee.

Ordered by the Court that this cause be now taken on briefs.

#869,
B. J. Conley, and
J. C. Caldwell, Appellant,
vs.

H. N. Horner, and
E. W. Hill, Appellees.

Ordered by the Court that this cause be now taken on motion to dismiss.

S U P R E M E C O U R T, J U N E, 1 8 9 9, T E R M. -- J U N E 5, F I R S T J U D I C I A L D A Y.

#872,
Board of County Commissioners
of Woods County, O.T.
Appellant,
vs.
W. E. Oxley, Appellee.

Comes now counsel for defendant in error herein, and waives the filing of plaintiff's briefs out of time; and three days are allowed defendant in error to file answer briefs, and this cause is taken on motion and briefs.

#870,
The Bank of Elackwell,
(a corporation)
Appellant,
vs.

John Dean, Assignee of the
Bank of Kildare,
Appellee.

Ordered by the Court that this cause be continued for the term, by agreement.

#878,
In re George W. Allen,
Relator, et al,
Appellants,
vs.

The Board of Election
Commissioners of Grant
Co., O.T. Appellee.

Ordered by the Court that this cause be now taken on motion for review.

#860,
George Theiss, Jr.,
Appellant,
vs.

Board County Commissioners
Washita County,
Appellee.

Ordered by the Court that plaintiff in error be allowed ten days to file briefs, and defendant in error ten days to file answer briefs.

#870,
Ed Ellis, Appellant,
vs.

The United States,
Appellee.

Ordered by the Court that this cause be passed on first call.

#704,
Noyes, Norman & Co.
Appellant,
vs.

Tootle, Wheeler & Motter,
Appellees.

Ordered by the Court that this cause be now taken on motions.

#860,
George Theiss, Jr.,
Appellant,
vs.

Board County Commissioners
Washita County,
Appellee.

Ordered by the Court that ten days be allowed plaintiff in error to file his briefs herein, and defendant in error to file answer briefs, and that this cause be submitted.

Ordered that court adjourn until 10 o'clock to-morrow morning.

SUPREME COURT, JUNE, 1899, TERM.--JUNE 6, SECOND JUDICIAL DAY.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Sixth day of June, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the June, 1899 term of said court, pursuant to law, this being the Second Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorables John L. McAtee, Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Samuel L. Overstreet, U. S. Attorney; Canada H. Thompson, U.S. marshal; John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court, the following proceedings were had to-wit:

#772,
Board of County Commissioners
of Custer County, O.T.
Appellant,
vs.

H. H. Beatty, Appellee.

Ordered by the Court that the appeal herein be dismissed at cost of appellant.

#787,
Board of County Commissioners
of Custer County, O.T.
Appellant,
vs.

First National Bank of El Reno, O.T.
Appellee.

Ordered by the Court that this cause be and the same is hereby dismissed at the cost of appellant, and on motion of the County Attorney.

#249,
M. Rawlings, Appellant,
vs.

John A. Hanley,
Rothenburg & Schloss,
The Hammer Paint Co.,
W. A. Stickney Cigar Co.,
A. M. Foster & Co., and
H. B. Martin and H. Boyes,
Appellees.

And now this cause comes on for decision by the Court upon the motion to dismiss the appeal herein. And the court having duly considered said motion, and being fully advised in the premises finds that the motion to dismiss should be sustained.

It is therefore ordered by the Court that the motion to dismiss herein should be sustained, and said cause is now hereby dismissed, the appeal not having been perfected in one year from the date of judgment.

#741,
Jonas H. Cook, Jonas M. Berry,
Guardians, et al, Appellants,
vs.
Emma D. McCord, Nelson F. Cheadle,
A. G. Wescott, and S. L. Overstreet,
Receiver, Appellees.

Come now counsel for defendants in error, and withdraw their motion for dismissal herein.

#628,
Carl Crawford, Appellant,
vs. Board of County Commissioners

The Board of County Commissioners of
Noble County, Appellee.

Ordered by the Court that this cause be now submitted on briefs.

SUPREME COURT, JUNE, 1899, TERM.--JUNE 6, SECOND JUDICIAL DAY.

#771,
The Board of County Commissioners
of Custer County, O.T.
Appellant,
vs.

Joel R. Burrow,
Appellee.

Ordered by the Court that this cause be now dismissed on motion of the County Attorney, and at cost of appellant.

#840,
William M. Gunn,
Appellant,
vs.

Charles F. Harris,
Appellee.

Ordered by the Court that this cause be now dismissed at cost of Plaintiff in error, the appeal not having been perfected within one year.

#854,
Elmer E. Carmichael,
Appellant,
vs.

W. F. Pierce, and
A. G. Lund,
Appellees.

Ordered by the Court that this cause be continued for the term, as per stipulation.

#674,
The Atchison, Topeka &
Santa Fe Railway Co.
Appellant,
vs.

J. M. Haynes as County
Treasurer of Kay County, O.T.,
and Board of Count. Commissioners
of Kay County,
Appellees.

And now this cause comes on for decision by the Court, on the motion to re-argue the same. And the Court having considered said motion, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered by the Court that the motion to re-argue this cause be, and the same is hereby denied.

#574,
Territory of Oklahoma ex rel
S. P. Ridings, County Attorney
Grant County, Appellant,
vs.

Board County Commissioners
Grant County, O.T., et al
and the Trustees of the various
townships of said Grant County,
Appellees.

Ordered by the Court that this cause be stricken from to-day's calendar, for oral argument.

#841,
Charles Richie,
Appellant,
vs.

The Territory,
Appellee.

Ordered by the Court that this cause be continued by agreement for the term.

SUPREME COURT, JUNE, 1899, TERM.--JUNE 6, SECOND JUDICIAL DAY.

#858, Francis D. Malignon,
Appellant,
vs.
The Territory,
Appellee.

Comes now J. L. Brown, of counsel for plaintiff in error, and makes oral argument in this cause, and the same is submitted.

#757,
J. G. Lookabaugh,
Appellant,
vs.
Frank K. Bell,
Appellee.

And now this cause comes on for decision by the Court upon the motion to dismiss the appeal herein. And the Court having duly considered said motion, and being fully advised in the premises, finds that the same should be sustained, and this cause dismissed.

It is therefore ordered and adjudged by the Court that the motion to dismiss the appeal herein be sustained; and that this cause be and the same is hereby dismissed at costs of appellant.

#850,
Benj. L. Kirtley,
Appellant,
vs.
May Dykes,
Appellee.

Comes now S. H. Harris, counsel for defendant in error, and asks time to file briefs herein; and 8 days are allowed; and the cause submitted on briefs.

#882,
Thomas C. Sinclair,
Appellant,
vs.
John Antle and
John P. Kratka,
Appellees.

Comes now S. H. Harris, counsel for plaintiff in error, and asks time to make counter-showing on motion to dismiss herein; time is granted and cause submitted.

#848,
Morris Brown,
Appellant,
vs.
Laura Donnelly,
Appellee.

Come now counsel for the parties, and waive oral argument herein. It is ordered by the Court that this cause be now submitted on briefs.

#884,
Territory of Oklahoma ex rel
Edgar W. Jones, Co. Att'y Logan Co. O.T.
Appellant,
vs.

S. N. Hopkins, Territorial Auditor
of Oklahoma Territory, Appellee.

Come now Devereaux and Ames, of counsel for relator, and make oral argument in this cause; and it is ordered by the Court that this cause be now taken on demurrer.

SUPREME COURT, JUNE, 1899, TERM,--JUNE 6, SECOND JUDICIAL DAY.

#831, John Turner and
Robert Turner,
Appellant,
vs.
S. S. Comer, Appellee.

And now this cause comes on for decision by the Court upon the motion to dismiss the appeal herein. And the Court having duly considered said motion, and being fully advised in the premises, finds that the same should be sustained, and this cause dismissed at appellant's cost.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby dismissed at the cost of appellant.

#777, Board of County Commissioners
of Custer County, O.T.
Appellant,
vs.

George Theiss, Jr. Appellee.

Ordered by the Court that this cause be dismissed at appellant's cost, on motion of County Atty.

#665, D. F. Huddleston,
Appellant,
vs.

Noble County, Appellee.

Ordered by the Court that this cause be now taken on briefs.

#683, Henry C. Ellis,
Appellant,
vs.

Territory of Oklahoma,
Appellee.

Ordered by the Court that a rehearing be granted in this cause.

Ordered that Court adjourn until 10 o'clock to-morrow morning.

SUPREME COURT, JUNE, 1899, TERM.--JUNE 7, THIRD JUDICIAL DAY.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Seventh day of June, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the June, 1899 term of said court, pursuant to law, this being the Third Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorables John L. McAtee, Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Samuel L. Overstreet, U. S. Attorney; Canada H. Thompson, U.S. Marshal; John C. Orner, Court Crier.

Public Proclamation having been duly made of the opening of the court, the following proceedings were had, to-wit:

#741,

Jonas H. Cook, Jonas M. Berry,
Guardians infant children of
F. R. McKennon, T. F. McKennon
Adm'r. estate F. R. McKennon, and
S. L. Overstreet, Gd'n ad litem,
Appellants,

vs.

Emma D. McCord, Nelson F. Cheadle,
A. G. Wescott, and S. L. Overstreet,
Receiver, Appellees.

Comes now John H. Cotteral, of counsel for plaintiff in error, and makes oral argument, and asks that 5 days be allowed him to prepare a reply brief, which is granted, and this cause taken on argument and briefs.

#742,

D. R. Fant, Appellant,

vs.

J. Y. Campbell and
J. M. Stovall, Appellees.

Comes now C. L. Rotsford, of counsel for plaintiff in error, and makes oral argument herein; and now this cause is taken on argument and briefs.

#809,

Fuller & Fuller Company
(a corporation) Appellant,

vs.

George P. Johnston,
Appellee.

Ordered by the Court that this cause be submitted on briefs.

#811,

A. N. Cranmer, and
J. W. McCool, et al,
Appellants,

vs.

The Board of County Commissioners
of Beaver County, O.T., J. C. Williamson
Co., Treasurer said county, and Harry J.
Reece, Sheriff,
Appellees.

Comes now James R. Keaton of counsel for plaintiff in error, and makes oral argument herein.

It is ordered by the Court that this cause be now taken on briefs and argument.

SUPREME COURT, JUNE, 1899, TERM. - JUNE 7, THIRD JUDICIAL DAY.

#725, W. T. Vowell, Appellant,

vs.

Elizabeth Taylor, and
George Taylor, Appellees.

Ordered by the Court that the motion to amend case-made herein be and the same is hereby over-ruled.

#874, Territory of Oklahoma ex rel
S. P. Ridings, Co. Att'y
Grant County, Appellant,

vs.

Board County Commissioners
Grant County, O.T., et al
and the Trustees of the
various townships of said
Grant County, Appellees.

Come now A. M. Mackey and R. B. Forrest, for plaintiff in error, and W. M. Whitelaw for defendant in error, and make oral argument in this cause; and said cause is now taken on argument and briefs.

Ordered that Court adjourn until 10 o'clock to-morrow morning.

S U P R E M E C O U R T, J U N E, 1899, T E R M.--J U N E 8, F O U R T H J U D I C I A L D A Y.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Eighth day of June, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the June, 1899 term of said court, pursuant to law, this being the Fourth Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorables John L. McAtee, Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Samuel L. Overstreet, U.S. Attorney; Canada H. Thompson, U.S. Marshal; John C. Orner, Court crier.

Public Proclamation having been duly made of the opening of the court, the following proceedings were had, to-wit:

#838,
J. W. Divine and
Emil Barwig, Appellants,

vs.

Mary J. Silvers,
Appellee.

Comes now J. C. Strang of counsel for plaintiff in error, and makes oral argument; and this cause is submitted.

#861,
John W. Archer and
Robert Crawford,
Appellants,

vs.

The United States,
Appellee.

Ordered by the Court that plaintiff in error be allowed to file his briefs herein in accordance with stipulation; and plaintiff is allowed 2 days to file suggestions on pending motion, and 30 days from May 24th, to file briefs.

#765,
Charles E. Vandervoort, Appellant,
vs.
Board of County Commissioners
of Pawnee County, O.T. Appellee.

#766,
Charles E. Vandervoort, Appellant,
vs.
Board of County Commissioners
of Pawnee County, O.T. Appellee.

#767,
Charles E. Vandervoort, Appellant,
vs.
Board of County Commissioners
of Pawnee County, O.T. Appellee.

#768,
Charles E. Vandervoort, Appellant,
vs.
Board of County Commissioners
of Pawnee County, O.T. Appellee.

#769,
Charles E. Vandervoort, Appellant,
vs.
Board of County Commissioners
of Pawnee County, O.T. Appellee.

Comes now C. J. Wrightsman, attorney for plaintiff in error, and asks that he be allowed to withdraw the papers of the District Court, from the case-made in the above entitled causes; which is by the court granted.

SUPREME COURT, JUNE, 1899, TERM.--JUNE 8, FOURTH JUDICIAL DAY.

#842,
Perry B. Lincoln,
Appellant,
vs.
The Territory,
Appellee.

Come now J. C. Strang and W. H. Robb, attorneys for plaintiff in error, and Fred M. Elkin,
attorney for defendant in error, and make oral argument herein; and this cause is submitted.

#884,
The Territory of Oklahoma
ex rel Edgar W. Jones,
County Attorney Logan County, O.T.
Plaintiff,
vs.

S. N. Hopkins, Territorial
Auditor of Oklahoma Territory,
Defendant.

And now this cause comes on for decision upon the demurrer to the answer herein. And the Court
having duly considered said demurrer, and being fully advised in the premises finds that the same should be
sustained, and the peremptory writ ordered at the cost of respondent.

It is therefore ordered and adjudged by the Court that the demurrer to the answer herein be and the
same is hereby sustained.

It is further ordered by the Court that the peremptory writ issue herein at the cost of respondent.

#885,
Wylie Brown, Appellant,
vs.

Caroline Brown, Appellee.

Ordered by the Court that the appeal herein be dismissed at cost of appellant.

#30,
E. S. Wiggins, as County Treasurer,
and W. W. Carter, A. Ingalls, and
Edward Claunck, as Board County
Commissioners Woodward County,
Appellant,
vs.

The Atchison, Topeka and
Santa Fe Ry. Co.
Appellee.

Ordered by the Court that 5 days additional be allowed herein for the filing of reply briefs.

#861,
John W. Archer and
Robert Crawford,
Appellants,
vs.

The United States,
Appellee.

Come now C. J. Wrightman of counsel for plaintiff in error, and asks time to file suggestions
in opposition to motion to dismiss; and two days are allowed therefor.

#880,
Clark Watts,
Appellant,
vs.

First National Bank
of El Reno,
Appellee.

Ordered by the Court that this cause be now submitted on briefs.

SUPREME COURT, JUNE, 1899, TERM.--JUNE 8, FOURTH JUDICIAL DAY.

#834,
Clark & Courts,
Appellants,
vs.
Greer County,
Appellee.

Comes now Duncan G. Smith, counsel for plaintiff in error, and J. A. Powers, counsel for defendant in error, and make oral argument in this cause; and it is ordered by the Court that this cause be now taken on argument and briefs.

It is further ordered by the Court that cause #835, George D. Barnard & Co., vs. Greer County, be taken on the argument and briefs in this case #834.

#835, George D. Barnard & Co.,
Appellants,
vs.
Greer County,
Appellee.

Ordered by the Court that this cause be now taken on the oral argument and briefs this day made in #834, Clark & Courts vs. Greer County.

#837,
Ransom Payne and
Geneva Z. T. Payne,
Appellant,
vs.
Long Bell Lumber Company
and The M.E. Church South,
of Enid,
Appellees.

Comes now George P. Rush of counsel for M. E. Church South, and asks that the submission of this cause yesterday, be set aside, and that he be permitted to make oral argument herein.

It is therefore ordered by the Court that the submission of this cause yesterday, is now set aside, and said Rush makes his oral argument herein; and cause is submitted, with leave to said counsel to add citations of authority to his brief.

Ordered that Court now adjourn until 10 o'clock to-morrow morning.

S U P R E M E C O U R T, J U N E, 1899, T E R M.--J U N E 9, F I F T H J U D I C I A L D A Y.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Ninth day of June, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the June, 1899 term of said court, pursuant to law, this being the Fifth Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorables John L. McAtee, Bayard T. Hainer, Benj. F. Barwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Samuel L. Overstreet, U.S. Attorney; Canada H. Thompson, U.S. Marshal; John C. Orner, Court Crier.

Public Proclamation having been duly made of the opening of the court, the following proceedings were had, to-wit:

#843,
David T. Hughes,
Appellant,
vs.
The Territory,
Appellee.

Come now George S. Green and G. W. Brown, counsel for plaintiff in error, and make oral argument herein; and J. C. Strang, counsel for the Territory, also makes his argument; and cause is submitted.

#847,
James A. Ferguson,
Appellant,
vs.
A. J. Blackwell and
Rosa Blackwell,
Appellees.

Come now George A. Grace, counsel for plaintiff in error, and W. C. Tetrick, counsel for defendant in error, and make oral argument in this cause; and leave is given to plaintiff in error to add citations; and cause is submitted.

#851,
Fred R. Janes,
Appellant,
vs.
Citizens Bank of
North Enid,
Appellee.

Comes now George P. Rash, counsel for plaintiff in error, and makes oral argument herein; and takes leave to add citations; and cause is submitted.

#863,
B. J. Conley, and
J. C. Caldwell,
Appellants,
vs.
H. N. Horner, and
E. W. Hill,
Appellees.

And now the motion to dismiss this cause is by the court overruled, and 60 days are given to plaintiff in error to file briefs, and 60 days thereafter to defendant in error to file his briefs; and cause is continued for the term.

Ordered that court now adjourn until 10 o'clock to-morrow morning.

SUPREME COURT, JUNE, 1899, TERM.--JUNE 10, SIXTH JUDICIAL DAY.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Tenth day of June, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the June, 1899 term of said court, pursuant to law, this being the Sixth Judicial day of said term;

Present, the Honorable Jno. H. Purford, Chief Justice, presiding; Honorables John L. McAtee, Edward T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Samuel L. Overstreet, U.S. Attorney; Canada H. Thompson, U.S. Marshal; John C. Orner, Court Crier.

Public Proclamation having been duly made of the opening of the court, the following proceedings were had, to-wit:

#351,
Fred R. Janes,
Appellant,
vs.
Citizens' Bank of
North Enid,
Appellee.

Gomes now George P. Rush, attorney for plaintiff in error, and asks that he be allowed 15 days to file reply briefs herein. And time is granted.

#352,
Winfield National Bank,
of Winfield, Kansas,
Appellant,
vs.
Bettie McWilliams,
Appellee.

Ordered by the Court that this cause be continued, as per stipulation.

#360,
George Theis, Jr.
Appellant,
vs.
Board County Commissioners
Washita County,
Appellee.

Ordered by the Court that this cause be submitted, with time to file briefs.

#362,
Fremont Bertwell,
Appellant,
vs.
William R. Haines,
Appellee.

Ordered by the Court that the motion to dismiss this cause be and the same is hereby overruled, and the cause continued for the term.

It is further ordered that defendant in error be allowed 10 days to file reply brief; and cause is continued for the term.

#366,
W. J. Mendenhall,
Appellant,
vs.
Byron E. Cagle,
Appellee.

Ordered by the Court that this cause be continued for the term, on application of plaintiff in error.

SUPREME COURT, JUNE, 1929, TERM--JUNE 10, SIXTH JUDICIAL DAY

#865,

F. M. Stallard, and
Frank Ellis,
Appellants,
vs.

Sylvester Knapp,
Appellee.

Ordered by the Court that this cause be now taken on briefs.

Ordered that Court now adjourn to next Monday, June 12th.

S U P R E M E C O U R T, J U N E, 1899, T E R M.--J U N E 12, S E V E N T H J U D I C I A L D A Y.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Twelfth day of June, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the June, 1899 term of said court, pursuant to law, this being the Seventh Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorables John L. McAtee, Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. P. Hegler, Clerk; Samuel L. Overstreet, U.S. Attorney; Canada H. Thompson, U.S. Marshal; John C. Orner, Court Crier.

Public Proclamation having been duly made of the opening of the court, the following proceedings were had, to-wit:

#878,
In re George W. Allen,
Relator, et al,
Appellants,
vs.

The Board of Election Commissioners
of Grant County, O.T.
Appellee.

Ordered by the Court that this cause be set for hearing to-morrow.

#867,
Allen I Acers,
Appellant,
vs.

Warren K. Snyder,
Appellee.

Ordered by the Court that this cause be now submitted on briefs.

#871,
George Boston,
Appellant,
vs.

G. D. Hewett and
R. M. Dugger, partners
as Hewett & Dugger,
Appellees.

Ordered by the Court that this cause be passed until 4 o'clock p.m. of this day.

#826,
Fire Extinguisher Manufacturing
Company, (a corporation)
Appellant,
vs.

The City of Perry,
Appellee.

And now oral argument is made in this cause. And it is ordered by the Court that the same be now submitted.

#875,
Frank E. Garton and
Lizzie Garton, Appellants,
vs.

Hudson Kimberly Publishing
Company, Appellee.

Come now M. Fulton and Sidney Denham, counsel for plaintiffs in error, and Selwyn Douglas, for defendant in error, and orally argue this cause. And it is ordered by the Court that the same be now submitted.

S U P R E M E C O U R T , J U N E , 1 8 9 9 , T E R M . -- J U N E 1 2 , S E V E N T H J U D I C I A L D A Y .

In re,

Admission of Marshall Fulton to practice,

Comes now Marshall Fulton, and motion is made for his admission to practice at the bar of the Supreme Court. And the Attorneys' oath is administered to applicant, and it is

Ordered by the Court that Marshall Fulton be, and he is hereby admitted to practice at the bar of the Supreme Court of the Territory, and all the inferior courts thereof.

#825,

C. E. Brakefield,
Appellant,
vs.

James Lucas,
Appellee.

Ordered by the Court that 10 days be given defendant in error to file briefs out of time, as per stipulation this day filed; and cause to be taken when briefs are filed.

In re,

Orders for rehearing of causes,

Ordered by the Court that all causes in which rehearing has been granted, will stand for rehearing to-morrow.

#826,

Fire Extinguisher Manufacturing
Company (a corporation)
Appellant,
vs.

The City of Perry,
Appellee.

Comes now H. A. Johnson, counsel for defendant in error, and makes oral argument herein; and cause is submitted.

#871,

George Boston,
Appellant,
vs.

G. D. Hewett and
R. H. Dugger, partners
as Hewett & Dugger,
Appellees.

Comes now C. L. Wotsford, attorney for plaintiff in error, and W. J. Jackson, attorney for defendant in error, and make oral argument in this cause. And same is submitted on arguments and briefs.

#842,

M. Rawlings,
Appellant,
vs.

John A. Hanley,
Rothenburg & Schloss,
The Hammer Paint Company,
W. A. Stickney Cigar Company,
A. M. Foster & Co., and H. B. Martin
and H. Boyes,
Appellees.

Ordered by the Court that the motion to reinstate this cause be and the same is hereby overruled.

In re,

Admission of W. J. Jackson to practice,

Comes now W. J. Jackson, attorney of the bar of Cleveland County, and motion is made for his admission to practice at the bar of the Supreme Court. And the Attorneys' oath is administered to said applicant.

It is therefore ordered by the Court that W. J. Jackson be and he is hereby admitted to practice at the bar of the Supreme Court of the Territory, and all the inferior courts thereof.

Ordered that Court now adjourn until 10 o'clock to-morrow morning.

S U P R E M E C O U R T, J U N E, 1899, T E R M. -- J U N E 13, E I G H T H J U D I C I A L D A Y.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Thirteenth day of June, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the June, 1899 term of said court, pursuant to law, this being the Eighth Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorables John L. McAtee, Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Samuel L. Overstreet, U.S. Attorney; Canada H. Thompson, U.S. Marshal; John C. Ormer, Court Crier.

Public Proclamation having been duly made of the opening of the court, the following proceedings were had, to-wit:

#727,
Burton S. Barnes, John Dalton,
partners as Barnes & Dalton,
Appellants,
vs.

J. W. Lynch, The Ponca City
Land and Improvement Company
(a corporation) Appellees.

Ordered by the Court that a rehearing be granted in this cause, and same to be heard to-morrow. Counsel for plaintiff in error waives oral argument, and files briefs.

#878,
In re George W. Allen,
Relator, et al,
Appellants,
vs.

The Board of Election
Commissioners of Grant County, O.T.
Appellee.

Come now H. I. Wasson, counsel for plaintiff in error, and Joseph Wisty, and make oral argument for relator herein. And Fred M. Elkin for the Territory makes oral argument herein; and asks leave to file typewritten briefs; which leave is granted.

#612,
William McClure,
Appellant,
vs.

J. W. Johnson,
Appellee.

Ordered by the Court that this cause be now taken on briefs, with leave to defendant in error to submit additional authorities.

Ordered that Court now adjourn until 10 o'clock to-morrow morning.

SUPREME COURT, JUNE, 1899, TERM.--JUNE 14, NINTH JUDICIAL DAY.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Fourteenth day of June, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the June, 1899 term of said court, pursuant to law, this being the Ninth Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorables John L. McAtee, Bayard T. Hainer, Benj. F. Burwell, and Stanton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Samuel L. Overstreet, U.S. Attorney; Canada H. Thompson, U.S. Marshal; John C. Orner, Court Crier.

Public Proclamation having been duly made of the opening of the court, the following proceedings were had, to-wit:

#683,
Henry C. Ellis,
Appellant,
vs.
The Territory,
Appellee.

Ordered by the Court that this cause be now taken on briefs.

#622,
Robert Morrow,
Appellant,
vs.
Mary E. Smith,
Appellee.

Ordered by the Court that the petition for a rehearing of this cause be and the same is now hereby denied.

#738,
W. F. Frazier,
Appellant,
vs.
Edward Prince,
Appellee.

Ordered by the Court that the petition for a rehearing of this cause be and the same is now hereby denied.

#760,
John Young, Appellant,
vs.
The Territory, Appellee.

Ordered by the Court that this cause be now submitted on stipulation.

#836,
J. B. Monroe and Ralph Waldo,
partners as Monroe Fruit Company,
Appellants,
vs.
T. C. Bottom & Co.,
Appellees.

Ordered by the Court that this cause be continued for the term.

S U P R E M E C O U R T, J U N E, 1899, T E R M. -- J U N E 14, N I N T H J U D I C I A L D A Y.

#727,

Burton S. Barnes, John Dalton,
partners as Barnes & Dalton,
Appellants,
vs.

J. W. Lynch, The Ponca City
Land and Improvement Company,
(a corporation) Appellees.

Ordered by the Court that this cause be now passed until 2 o'clock p.m.

#727,

Burton S. Barnes, John Dalton,
partners as Barnes & Dalton,
Appellants,
vs.

J. W. Lynch, The Ponca City
Land and Improvement Company,
(a corporation) Appellees.

Comes now John C. Pollock, of counsel for defendant in error, and makes oral argument herein.

And cause is submitted.

Ordered that court now adjourn until 2 o'clock p.m. to-morrow.

S U P R E M E C O U R T, J U N E, 1899, T E R M. -- J U N E 15, T E N T H J U D I C I A L D A Y.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Fifteenth day of June, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the June, 1899 term of said court, pursuant to law, this being the Tenth Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorables John L. McAtee, Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Samuel L. Overstreet, U.S. Attorney; Canada H. Thompson, U.S. Marshal; John C. Orner, Court Crier.

Public Proclamation having been duly made of the opening of the court, the following proceedings were had, to-wit:

#692,
S. A. Moore,
Appellant,

vs.

O. H. Bevis, doing business
as the Bevis Mercantile Co.
Appellee.

Ordered by the Court that the motion to dismiss this cause be and the same is hereby overruled.

#610,
John Ten Gate,
Appellant,

vs.

M. E. Sharp,
Appellee.

Ordered by the Court that the petition for rehearing in this cause be and the same is hereby denied.

#712,
Robert Sutherland, as Assignee,
Appellant,
vs.

John H. Smith, J. W. Browning,
J. J. Mackran, Susan E. Vawter,
and J. H. Ravishorst,
Appellees.

Ordered by the Court that the motion to dismiss this cause be sustained; and said cause is hereby dismissed.

#257,
Joseph J. Terrie,
Appellant,
vs.

Harry C. C. Stiles,
Appellee.

Ordered by the Court that the motion to dismiss this cause be sustained; and cause is hereby dismissed at cost of appellant.

#682,
Thomas C. Sinclair,
Appellant,
vs.

John Antle and
John P. Kratka,
Appellees.

Ordered by the Court that the motion to dismiss this cause be sustained, and that the same be now dismissed at the cost of appellant.

It is further ordered that the supersedeas herein be vacated.

S U P R E M E C O U R T, J U N E, 1899, T E R M.--J U N E 15, T E N T H J U D I C I A L D A Y.

#839,
Augustus G. Heaton,
Appellant,
vs.
Adelaide G. Heaton,
Appellee.

Ordered by the Court that the motion to dismiss this cause be sustained, and that the same be and is hereby dismissed at the cost of plaintiff in error.

#861,
John W. Archer, and
Robert Crawford,
Appellant,
vs.
The United States,
Appellee.

Ordered by the Court that the motion to dismiss this cause be and the same is hereby overruled.

#824,
N. B. Trulock, J. B. Trulock,
H. G. Bradford, R. S. Trulock,
and Mariana P. Trulock, partners
as El Reno Ice & Coal Company,
Appellant,
vs.

J. R. Blair,
Appellee.

And now this cause comes on for decision by the court upon the records and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that this cause should be reversed.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby reversed at cost of defendant in error.

Opinion by McAtee, J. All the Justices concurring.

#614 1/2,
Lottie Jackson,
Appellant,
vs.
Oliver C. Thornton,
Appellee.

And now this cause comes on for decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises, finds that said cause should be reversed and remanded.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby reversed and remanded.

Opinion by McAtee, J. All the Justices concurring except Burwell, J., who was of counsel.

#796,
N. B. Easton,
Appellant,
vs.
Henry Broadwell,
Appellee.

Ordered by the Court that the appeal herein be dismissed.

Opinion by McAtee, J., to be furnished later.

S U P R E M E C O U R T, J U N E, 1 8 9 9, T E R M. -- J U N E 1 5, T E N T H J U D I C I A L D A Y.

#794, George Roberts,
Appellant,
vs.
The Territory,
Appellee.

And now this cause comes on for decision by the Court upon the record, briefs and oral argument therein. And the Court having duly considered the same, and being fully advised in the premises finds that this cause should be reversed and remanded.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby reversed and cause remanded.

Opinion by McAtee, J. All the Justices concurring.

#759, John Ten Cate,
Appellant,
vs.
Noah Fansler,
Appellee.

And now this cause comes on for decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby affirmed

Opinion by McAtee, J. All the Justices concurring, except Burwell, J., who dissents.

#693, George W. Miller,
Appellant,
vs.
The United States of America,
Appellee.

And now this cause comes on for decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises, finds that this cause should be reversed and remanded.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby reversed and remanded.

Opinion by McAtee, J. All the Justices concurring. Chief Justice Burford specially concurring.

#820, Joe M. Foith,
Appellant,
vs.
The Territory,
Appellee.

And now this cause comes on for final decision by the Court, upon the record and briefs submitted therein. And the Court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court herein should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed.

Opinion by McAtee, J. All the Justices concurring, except Burford, C.J., who presided below.

SUPREME COURT, JUNE, 1899, TERM.--JUNE 15, TENTH JUDICIAL DAY.

#307,
George M. Southgate,
vs. Appellant,
B. M. Frier,
Appellee.

And now this cause comes on for final decision by the Court, upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court herein should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed.

Opinion by McAtee, J. All the justices concurring except Burwell, J., who presided in the trial court, not sitting.

#750,
Henry Betts, J. J. Lowe,
A. Hays, and J. W. Folsom,
vs. Appellants,
Milton Mills,
Appellee.

And now this cause comes on for final decision by the Court, upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed.

Opinion by McAtee, J. All the Justices concurring.

ORDER FIXING TERMS OF COURT IN THE FIRST, SECOND, THIRD, FOURTH AND FIFTH JUDICIAL DISTRICTS.

Ordered by the Court: That terms of court for the various districts of the Territory be fixed as follows, to-wit:

FIRST DISTRICT:

For Lincoln County, at Chandler, Second Monday in July (10th) 1899.

It is further ordered by the Court: That the terms of court for said Lincoln County, for September, 1899, be and the same is hereby abolished.

SECOND DISTRICT:

It is further ordered by the Court: That terms of court be fixed for the Second Judicial District as follows, to-wit:

For Roger Mills County, at Cheyenne, Tuesday, September 12, 1899.
For Custer County, at Arapahoe, Tuesday, October 3, 1899.
For Washita County, at Cloud Chief, Tuesday, October 17, 1899.
For Kingfisher County, at Kingfisher, Tuesday, October 31, 1899.
For Canadian County, at El Reno, Monday, November 27, 1899.

THIRD DISTRICT:

It is further ordered by the Court: That terms of court be fixed for the Third Judicial District as follows, to-wit:

For Cleveland County, at Norman, Tuesday, September 5, 1899.
For Greer County, at Mangum, Tuesday, October 10, 1899.
For Oklahoma County, at Oklahoma City, Wednesday, November 1, 1899.
For Pottawatomie County, at Tecumseh, Monday, December 4, 1899.

SUPREME COURT, JUNE, 1899, TERM.--JUNE 15, TENTH JUDICIAL DAY.

FOURTH DISTRICT:

It is further ordered by the Court: That terms of court be fixed for the Fourth Judicial District as follows, to-wit:

For Kay County, at Newkirk, Monday, September 4, 1899.
 For Beaver County, at Beaver, Wednesday, October 11, 1899.
 For the Osage Nation, At Pawhuska, Tuesday, October 24, 1899.
 For Pawnee County, at Pawnee, Monday, November 6, 1899.
 For Noble County, at Perry, Monday, December 4, 1899.

FIFTH DISTRICT:

It is further ordered by the Court: That terms of court be fixed for the Fifth Judicial District as follows, to-wit:

For Grant County, at Pond Creek, Monday, September 4, and Friday December 15, 1899.
 For Day County, at Grand, Thursday, September 14, 1899.
 For Dewey County, at Taloga, Thursday, September 21, 1899.
 For Blaine County, at Watonga, Monday, October 2, 1899.
 For Woods County, at Alva, Tuesday, October 17, 1899.
 For Garfield County, at Enid, Friday, October 27, 1899.

It is further ordered that all causes at issue and standing for trial and undisposed of, at the terms heretofore fixed, shall stand for trial and determination at the terms provided for by this order. And all orders, writs and summonses of every character made returnable to the next terms of court, shall be returnable and stand for determination at the terms provided for in this order. And all persons under bond or recognizance to appear at any term of court as heretofore fixed, shall be required to appear on the first day of the term of court as fixed in this order, in the county in which they were required to appear by such bond or recognizance.

And it is further ordered that the Clerk of the Supreme Court send a certified copy of this order to each District Court of the Territory, and to the U. S. Attorney, and U. S. Marshal.

It is further ordered that all orders heretofore made in conflict with the above are hereby vacated and set aside.

#578,

In re George W. Allen, Relator, et al,
 Appellants,
 vs.

The Board of Election Commissioners
 of Grant County, O.T.
 Appellee.

And now this cause comes on for hearing and determination upon a motion for a review and appeal to the Supreme Court, from the action of the Chief Justice thereof in Chambers, at Stillwater, O.T., May 9th, 1899, denying the application of the said George W. Allen, et al, for a writ of mandamus herein.

And the Court having duly considered said cause, and being fully advised in the premises, finds that the action of the Chief Justice, in vacation, denying said writ should be sustained, and the writ of mandamus denied.

It is therefore ordered and adjudged by the court that the writ of mandamus herein asked for be and the same is hereby denied.

Opinion by Associate Justice Irwin, to be filed later.

AMENDMENT OF RULE FOR ORAL ARGUMENT.

Argument—notice of.

IX. Attorneys desiring to make oral argument shall serve notice on the Clerk of their intention at least 15 days prior to the first day of the term. If no such notice is served, causes will stand submitted on the printed briefs. No oral argument will be heard on motions. One hour only, except with the consent of the Court, shall be consumed in the oral argument of a cause by counsel by either party.

Ordered that Court now adjourn until August 21st, 1899.

SUPREME COURT PROCEEDINGS IN VACATION.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

The Territory of Oklahoma ex rel,
S. P. Ridings, Co. Attorney
Grant County, O.T. Plaintiff in error, (

vs.

No. 874.

T. P. Neville, H. M. Brewer,
J. M. Corey, Board of County
Commissioners of Grant County, O.T.,
Howard D. Reed, Co. Clerk, et al,
Defendants in error. (

STAY ORDER.

Whereas, on the 6th day of June, 1899, the plaintiff in error in the above entitled action filed its duly verified application for a temporary restraining order, restraining the defendants in error from proceeding to hold a special election in the County of Grant, on the 25th day of July, 1899, to determine the question of the relocation of the County Seat of said County, from which said verified application it appears that the defendants in error, the said County Commissioners, and the said County Clerk have called a special election for said purpose to be held on the 25th day of July, 1899. And it further appearing that said County Commissioners and said County Clerk are about to proceed to issue notices of such election, and to take other necessary and essential steps to have and to hold said election in said county on said date; Now,

Whereas, this said action involves the right to hold said election legally in said county, and said question is pending in this court, and is yet undetermined by the court; and

Whereas, should the court in its decision in this case determine that the holding of said election would be illegal, and inasmuch as large expenses would be incurred to said county, and a great turmoil would arise in said county by the holding of said special election, should the same be determined to be illegal, and the object of said action still pending be defeated, should such election be held on the 25th day of July, 1899,

Now, therefore, desiring that justice be done to all parties, it is hereby ordered that the proceedings to hold such election pending this action in this court, be and the same are hereby stayed, and said defendants and each of them is hereby restrained from taking any step or steps whatever towards giving notice of election, printing ballots, or doing anything whatever to have and to hold said election on the 25th day of July, 1899, or on any day whatsoever, until further order of this court.

This order to take effect upon the filing of a bond on the part of the plaintiff in error, in the sum of Five Hundred Dollars (\$500.00), to be approved by the Clerk of this Court, and conditioned for the payment of all costs and damages that may be occasioned should said cause be affirmed; and when said order is served by cop. upon the above named defendants in error.

Jno. H. Burford,

Chief Justice.

Dated at Guthrie, June 29, 1899.

Attest: Benj. F. Hegler,
Clerk.

(Seal)

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

In the matter of the assignment of Judge
B. F. Burwell to 4th Judicial District, O.T.

O K D H K.

Whereas, it has been made to appear to me that the Hon. Bayard T. Hainer, Associate Justice of the Supreme Court of Oklahoma Territory, and Presiding Judge of the 4th Judicial District thereof, is absent from said District and without said Territory; and that there are legal matters and proceedings in said District demanding attention,

Now, Therefore, I, Jno. H. Burford, Chief Justice of the Supreme Court of the Territory of Oklahoma, do hereby designate and assign the Hon. Benj. F. Burwell, Associate Justice of said Supreme Court, and presiding Judge of the Third Judicial District, Oklahoma Territory, to hold court and preside in the said Fourth Judicial District, and to hear, try and determine all matters which may properly come before said court, or before said Judge in Chambers during the absence of said Hon. Bayard T. Hainer.

Done in Chambers at the city of Guthrie, this 25th day of July, A.D. 1899.

Jno. H. Burford,
Chief Justice.

Seal.

Attest:

Benj. F. Hegler, Clerk Supreme Court.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

I N T H E S U P R E M E C O U R T O F T H E T E R R I T O R Y O F O K L A H O M A .

In the matter of the Assignment)
of Judge B. F. Burwell to 2nd : O R D E R .
Judicial District, O.T.)

Whereas, it has been made to appear to me that the Hon. Clinton F. Irwin, Associate Justice of the Supreme Court of Oklahoma Territory, and Presiding Judge of the 2nd Judicial District thereof, is absent from said District and without said Territory; and that there are legal matters and proceedings in said District demanding attention,

Now, therefore, I, Jno. H. Burford, Chief Justice of the Supreme Court of the Territory of Oklahoma, do hereby designate and assign the Hon. Benj. F. Burwell, Associate Justice of said Supreme Court, and presiding Judge of the Third Judicial District, Oklahoma Territory, to hold court and preside in the said Second Judicial District, and to hear, try and determine all matters which may properly come before said court.

Done in Chambers at the city of Guthrie, this 7th day of July, 1899.

Jno. H. Burford,
Chief Justice.

(Seal)

Attest:

Benj. F. Hegler,
Clerk Sup. Ct.

I N T H E S U P R E M E C O U R T O F T H E T E R R I T O R Y O F O K L A H O M A .

William C. Browning, Edward W. Dewey and
Francis King, the sole surviving partners
composing the firm of Henry W. King &
Company, Kate Tootle, William W. Wheeler,
Joshua Motter and Francis S. Dameron,
partners under the firm name and style of
Tootle, Wheeler & Motter, The Central
National Bank of Topeka, Kansas, a national
banking corporation, The Bank of Topeka,
a corporation organized under the laws of
the State of Kansas, and A. H. Vance,
Plaintiffs in error,
against
Charles H. DeFord, Defendant in error. :

O R D E R .

Now on this 27, day of February, A.D., 1899, is presented to me, the undersigned Chief Justice of the Supreme Court of the Territory of Oklahoma, the petition of the above named plaintiffs in error on appeal, and also their petition for a writ of error, which said appeal and writ of error are respectively by me granted, and the plaintiffs in error and appellants desiring that their writ of error shall operate as a supersedeas, it is by me ordered that said appeal and writ of error shall operate as a supersedeas, upon the due execution of a supersedeas bond, in form as provided by law, with sufficient sureties, within 15 days from this date, in the penal sum of One Thousand dollars.

Jno. H. Burford,
Chief Justice of the Territory of
Oklahoma.

SUPREME COURT PROCEEDINGS IN VACATION.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

William C. Browning, Edward W. Dewey
and Francis King, the sole surviving
partners composing the firm of Henry
W. King & Company, Kate Tootle, William
W. Wheeler, Joshua Motter and Francis S.
Dameron, partners under the firm name and
style of Tootle, Wheeler & Motter, The Central
National Bank of Topeka, Kansas, a national
banking corporation, the Bank of Topeka,
a corporation organized under the laws of
the State of Kansas, and A. H. Vance,
Plaintiffs in error,
against

Charles H. DeFord, Defendant in error.

SUPERSEDEAS BOND.

KNOW ALL MEN BY THESE PRESENTS, that we, William C. Browning, Edward W. Dewey and Francis King, the sole surviving partners composing the firm of Henry W. King & Company, Kate Tootle, William W. Wheeler, Joshua Motter and Francis S. Dameron, partners under the firm name and style of Tootle, Wheeler & Motter, The Central National Bank of Topeka, Kansas, a national banking corporation, the Bank of Topeka, a corporation organized under the laws of the State of Kansas, and A. H. Vance, as principals, and M. L. Turner, as surety, are held and firmly bound unto the defendant in error, Charles H. DeFord, in the full and just sum of one thousand dollars (\$1000.00), to be paid to the said Charles H. DeFord, his representatives or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, successors and administrators jointly and severally by these presents.

Sealed with our seals and dated this 7th day of March, A.D., 1899.

The conditions of this obligation are as follows:

WHEREAS, on the eleventh day of February, 1899, at a session of the Supreme Court of the Territory of Oklahoma, holden at the city of Guthrie, in said Territory, and in a suit pending in said court between the said William C. Browning, Edward W. Dewey and Francis King, the sole surviving partners composing the firm of Henry W. King & Company, Kate Tootle, William W. Wheeler, Joshua Motter and Francis S. Dameron, partners under the firm name and style of Tootle, Wheeler & Motter, The Central National Bank of Topeka, Kansas, a national banking corporation, the Bank of Topeka, a corporation organized under the laws of the State of Kansas, and A. H. Vance, as plaintiffs in error, and Charles H. DeFord, as defendant in error, there was a judgment rendered against the said plaintiffs in error and in favor of the defendant in error, affirming a certain judgment of the District Court of the County of Logan and Territory of Oklahoma theretofore pending in said district court, wherein these plaintiffs in error were plaintiffs and said defendant in error was defendant, and assessing the costs of said action against the said plaintiffs in error; and said plaintiffs in error having obtained a writ of error and filed a copy thereof in the Clerk's office of the said Supreme Court to reverse the said judgment of the said Supreme Court of the Territory of Oklahoma, and a citation directed to the said defendant in error, citing and admonishing him to be and appear at a session of the Supreme Court of the United States of America to be holden at the city of Washington on the twenty-ninth day of March, 1899:

NOW, The condition of the above obligation is such that if the said William C. Browning, Edward W. Dewey and Francis King, the sole surviving partners composing the firm of Henry W. King & Company, Kate Tootle, William W. Wheeler, and Joshua Motter and Francis S. Dameron, partners under the firm name and style of Tootle, Wheeler & Motter, The Central National Bank of Topeka, Kansas, a national banking corporation, the Bank of Topeka, a corporation organized under the laws of the State of Kansas, and A. H. Vance, plaintiffs in error,

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

shall prosecute said writ of error to effect, and answer all damages and costs, including interest, and all other charges or assessments adjudged against the said plaintiffs in error, if they fail to make said appeal good; then the above obligation to be void, else to remain in full force and effect.

J. R. Mulvane,
A. W. Knowles,
P. I. Bonebrake,
A. H. Vance,
M. L. Turner.

Tootle, Wheeler & Motter,
Henry W. King & Co.
Bank of Topeka by J. R. Mulvane, Prest.
Central Natl Bank of Topeka, by
P. I. Bonebrake,

Territory of Oklahoma,)
) ss.
County of Oklahoma.)

M. L. Turner, being first duly sworn on his oath, deposes and says: that he is a resident of the Territory of Oklahoma and a freeholder therein, and that he is worth the sum of more than Three Thousand dollars over and above all his debts, liabilities and exemptions.

And further affiant saith not.

(Seal)

M. L. Turner,

Subscribed and sworn to before me this 7th day of March, A.D., 1899.

Elizabeth Parsons.

Notary Public.

My commission expires Oct. 13, 1902.

IN THE SUPREME COURT, TERRITORY OF OKLAHOMA.

June Term, 1899.

J. R. Wallace, et al,)
) vs. Order for Return of Execution.
H. B. Bullen, et al,)

This cause coming on before me at my Chambers, for hearing on the application of defendants in error for stay of execution pending motion to retax costs. And having examined said application and being fully advised, It is now by me ordered that all proceedings under said execution for a period of five days from the date of delivery of copy of this order to the Sheriff, in order to enable the defendants to execute a stay bond; and that said execution be returned and all proceedings to collect the costs in said cause be stayed until the further order of the Supreme Court, on the defendants filing a bond in the sum of \$300, with the Clerk of said Court, conditioned for payment of all costs that may be finally adjudged against them on said motion to retax costs.

Witness my hand at Chambers this 18th day of July, 1899.

Jno. H. Burford,

Chief Justice.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

In the matter of the assignment)
of Judge B. F. Burwell to 2nd : O R D E R .
Judicial District, D.T.)

Whereas it has been made to appear to me that the Hon. Clinton F. Irwin, Associate Justice of the Supreme Court of Oklahoma Territory, and presiding judge of the 2nd Judicial District thereof, is absent from said District and without said Territory; and that there are legal matters and proceedings in said District demanding attention,

Now, therefore, I, Jno. H. Burford, Chief Justice of the Supreme Court of the Territory of Oklahoma, do hereby designate and assign the Honorable Benj. F. Burwell, Associate Justice of said Supreme Court, and presiding judge of the Third Judicial District, Oklahoma Territory, to hold court and preside in the said Second Judicial District, and to hear, try and determine all matters which may properly come before said court, or before said judge in chambers during the absence of said Irwin.

Done in chambers at the city of Guthrie, this 7th day of July, 1899.

(Seal)

Attest: Benj. F. Hogler, Clerk Sup. Ct.

Jno. H. Burford,
Chief Justice.

SUPREME COURT PROCEEDINGS IN VACATION.
IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

Before the honorable B. F. Burwell, Associate Justice of the Supreme Court of the Territory of Oklahoma.

J. B. Beaver, Plaintiff,

against

Petition for Alternative Writ of Mandamus.

L. Haines Buxton, as Superintendent)
of the Territorial Board of Health;
of the Territory of Oklahoma,
Defendant.

The plaintiff, J. B. Beaver, complains of the said defendant, L. Haines Buxton, and alleges that the said defendant is the Territorial Superintendent of Public Health, duly qualified and acting as such; that the plaintiff J. B. Beaver is a resident of the County of Washita, and Territory of Oklahoma, and is, after taking a due and regular course of study in a regularly organized medical college, to-wit: The Independent Medical College of Chicago, Illinois, duly graduated from said College, and in consideration of the taking and completion of the prescribed course of study in said College, the faculty of said College, by authority of its charter of incorporation under the laws of the State of Illinois, duly issued a diploma to the said plaintiff, wherein it is recited and publicly proclaimed, certified and declared by the officers of said corporation and by the faculty and teachers and instructors thereof, that the said officials of said Medical College aforesaid have decreed that this plaintiff Joseph B. Beaver, possesses sufficient well known and tried learning in the science of medicine to be honored with the degree of Doctor of Medicine, and whereby and by the terms of said diploma the said plaintiff was created and made a Doctor of Medicine, which said diploma was issued to the plaintiff on the 22nd day of June, A.D., 1898; that the said plaintiff has heretofore tendered to the said defendant, and exhibited to him proof of the said diploma satisfactory to the said defendant of its having been issued and granted, as aforesaid, and accompanied the said tender of proofs, as aforesaid, with the affidavits of two reputable citizens of the said County of Washita, and Territory of Oklahoma, to the effect that such applicant possesses the qualifications of a physician and is a possessor of such diploma, and is otherwise a man of good moral character; all of which proofs were found by the said defendant to be satisfactory and were received by him as such, and the said tender was also accompanied by the payment of a cash fee of two dollars by the said plaintiff to the said defendant, which the said defendant kept and retained; but, notwithstanding the compliance with the requirements of the law, as hereinbefore set out by the said plaintiff, the said defendant unlawfully and wrongfully fails and refuses to issue to the said plaintiff a license certifying the applicant to be a practicing physician and having the qualifications for such, as prescribed by law, and still fails and refuses to issue such license.

Wherefore, the said plaintiff prays that an alternative writ of mandamus may issue to the said defendant, requiring the said defendant to issue said license, or to show cause before the honorable Judge granting the said alternative writ, why said license is not issued.

W. R. Wheeler and John W. Shartel,

Attorneys for Plaintiff.

Territory of Oklahoma,)

Oklahoma County.) ss.

Joseph B. Beaver, being duly sworn on his oath deposes and says that the allegations contained in the above and foregoing application for an alternative writ of mandamus are true.

Joseph B. Beaver.

Subscribed in my presence and sworn to before me
this 15th day of July, A.D., 1899.

Elizabeth Parsons,
Notary Public.

My commission expires Oct. 13, 1902.

(Seal)

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

Before the Honorable E. F. Burwell, Associate Justice of the Supreme Court of the Territory of Oklahoma.

J. B. Beaver, Plaintiff,
against
L. Haines Buxton, as Superintendent
of the Territorial Board of Health
of the Territory of Oklahoma,
Defendant.

THE TERRITORY OF OKLAHOMA, TO L. HAINES BUXTON, AS SUPERINTENDENT OF THE TERRITORIAL BOARD OF HEALTH OF THE TERRITORY OF OKLAHOMA:

WHEREAS, The plaintiff, Joseph B. Beaver, alleges that the said defendant is the Territorial Superintendent of Public Health, duly qualified and acting as such; that the said plaintiff is a resident of the County of Washita, and Territory of Oklahoma, and is, after taking a due and regular course of study in a regularly organized medical college, to-wit: the Independent Medical College of Chicago, Illinois, duly graduated from said College, and in consideration of the taking and completion of the prescribed course of study in said College, the faculty of said College, by authority of its charter of incorporation under the laws of the State of Illinois, duly issued a diploma to the said plaintiff, wherein it is recited, certified and declared by the officers of said corporation and by the said faculty, teachers and instructors thereof, that the said Joseph B. Beaver has duly and successfully completed a course of study in said College, and is well known and tried in his learning and science of medicine, and therein honored with the degree of Doctor of Medicine, as the completion, consummation and graduation from said course of study, and which said diploma was issued to the said plaintiff on the 22nd day of June, 1898; and that the said plaintiff has heretofore tendered to the said defendant and exhibited to him due proof that the said diploma was duly issued and due proof of the same being the identical person named therein, and accompanied the same with due proofs, as aforesaid, by the affidavits of two reputable citizens of said County of Washita, and Territory of Oklahoma, to the effect that said applicant is the identical person named in said diploma, and that said applicant possesses the qualifications of a physician, and is otherwise a man of good moral character, and is not subject to intoxication; all of which proofs are found by the said defendant to be satisfactory, and were received by him as such, and the said proofs were also accompanied by the payment of the cash fee of two dollars by the said plaintiff to the said defendant, which the said defendant kept and retained; but that, notwithstanding the compliance with the requirements of the law, as hereinbefore set out by the said plaintiff, the said defendant unlawfully and wilfully fails and refuses to issue to the said plaintiff a license, certifying the said plaintiff to be a practicing physician, and having qualifications as such, as prescribed by law, and still fails and refuses to issue such license.

Now, these are to command you, that immediately upon the receipt of this writ, you do cause to the said Joseph B. Beaver the license herein mentioned, certifying the applicant to be a practicing physician, as prescribed by law, or show cause, before the Supreme Court of the Territory of Oklahoma, at ten o'clock a.m. on the 21st day of August, 1899, why you have not done so, and then and there return this writ, with your certificate of having issued said license, or your reasons for not issuing the same.

E. F. Burwell,
Associate Justice of the Supreme Court of the
Territory of Oklahoma.

Witness the signature of the Hon. E. F. Burwell, Associate Justice of the Supreme Court of the
Territory of Oklahoma, this July 18, 1899.

Edw. F. Maglar,

Clerk of the Supreme Court of the Territory
of Oklahoma.

(Seal)

For good cause shown, I hereby appoint J. T. Brown to serve the within writ, and to return the writ, this 18th day of July, 1899.

Received this writ this 18th day of July, 1899, and executed the same by delivering writ to Dr. Buxton at his residence, this 18th day of July, 1899, G. V. Corbridge, Sheriff, at J. T. Brown, under sheriff.

E. F. Burwell,
Associate Justice of the Supreme Court of the
Territory of Oklahoma.

SUPREME COURT PROCEEDINGS IN VACATION.

Territory of Oklahoma,)
) ss.
 Logan County.)

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.
 TO THE JUNE TERM 1899.

The Territory of Oklahoma on the relation of)
 Edgar Jones, County Attorney of Logan County,)
 O. T., Plaintiff, ()
 vs.)
 S. N. Hopkins, as Territorial Auditor of)
 Oklahoma Territory, Defendant. ()

Motion and Application
 for Writ of Mandamus.

Comes the Territory of Oklahoma on the relation of Edgar Jones, County Attorney of Logan County, O. T., complaining of S. N. Hopkins, as Territorial Auditor, represents that Edgar Jones is the duly and legally elected, qualified and acting County Attorney in and for Logan County, O.T., and that S. N. Hopkins is the duly, qualified and acting Territorial Auditor of Oklahoma Territory, and each reside at Guthrie, in Logan County, O.T.; that heretofore to-wit, on the 9th day of May, 1899, the Board of County Commissioners of Logan County, O.T., at a regular session of said Board then and there having before said Board of County Commissioners for consideration the question of refunding certain outstanding bonds of said Logan County, O.T. to-wit, \$20,000.00 of the funding bonds of the said County issued under date of September 14, 1891, bearing interest at the rate of 6% per annum, payable annually, and being absolutely due and payable 10 years from their date but subject to the right of the County to mature and redeem the same at any time after three years from date, and \$45,000.00 funding bonds of said County dated January 2, 1893, bearing interest at the rate of 6% per annum, payable annually, and being absolutely due and payable 10 years from their date but subject to the right of the County to mature and redeem the same at any time after three years from date, which aforesaid bonds were issued under the provisions of Article 2, Chapter 10 of the compiled Statutes of 1890 of this Territory; and also \$18,000.00 of bonds of said County issued under date of May 2, 1890, bearing interest at the rate of 6% per annum and becoming absolutely due and payable 10 years after their date, subject to the right of the County to mature and redeem the same at any time after issuance, and issued under the Provisions of Article 2, Chapter 5, Session Laws of 1897 of said Territory; that upon consideration by the said Board of County Commissioners of the said subject, the said Board considered and found each and all the above described bonds duly and regularly issued under the authority of law, and that the County had regularly paid the interest thereon as the same became due, and that such indebtedness was a valid and legal bonded indebtedness owing by the said County; that in view of the high rate of interest which said bonds draw, and in refunding such outstanding bonds and indebtedness a lower rate of interest could be had, that it was for the best interest of the County to avail itself of the option therein contained to mature said bonds and redeem the same, and to that end, to refund them, by issuing refunding bonds under the provision of the existing laws of this Territory, as may be found in Chapter 7 Session Laws of 1895 of said Territory, and amended by Chapter 3, Article 2 of the Laws of Oklahoma 1897, and other lawful authority; that for the purpose of so refunding and taking up said bonds of the County of Logan, to the amount of \$80,000.00 to be issued under said Act and Laws aforesaid, which bond to bear interest at the rate of 4 1/2% per annum, payable semi-annually, to be of the denomination of \$1,000.00 each, principal and interest of which to be payable in lawful money of the United States of America at the Fiscal Agency of the Territory of Oklahoma in the City of New York, or in the event of the non-existing or discontinuance of said Agency, then at the Chemical National Bank in the City of New York, and which bonds to be issued in 10 equal annual instalments or series, the first series of instalments of said bonds each to become due and payable 20 years from their date, and one instalment or series of said bonds to become due and payable each year thereafter until the whole are paid; that of the \$80,000.00 of indebtedness so evinced by the bonds aforesaid as heretofore issued by said Logan County, \$20,000.00 to be taken up by the

SUPREME COURT PROCEEDINGS IN VACATION.

issuance and sale of the refunding bonds therein provided for and \$2,000.00 of which indebtedness is proposed to be paid in cash by funds now on hand with the Treasurer of said County; that the said County Commissioners Court further provided for a form of bond, in due and legal form with coupons attached, proper certificates, and all other things being in form a valid, binding and legal obligation upon said County, which when being properly signed, certified and attested, and when certified by the Territorial Auditor certifying thereto that such bond had been legally issued and had been registered in his office and providing for such certificate thereon on said bond as required by law, then to be a valid and binding negotiable obligation against said County.

The said Commissioners' Court then and there further ordered that said Board of County Commissioners and the County Clerk should appear before the District Court of Logan County, O.T. at the District Court room at Guthrie, in said County, on the 22nd day of May, 1893, at the hour of 10 o'clock a.m. of said day, then and there to make proof of the aforesaid indebtedness now outstanding, to-wit, the \$22,000.00 bonded indebtedness, and to procure said Court to hear and determine the amount, validity and character of said bonded indebtedness, and to procure said Court to sign said bonds pursuant to the requirements of law, and ordered that notice should be given by the proper clerk of the time and place of said application to such District Court in the manner required by law, which said notice was thereafter duly issued and given in the manner and form, and for the length of time required by law; that thereafter on the 22nd day of May, 1893, the same being a Judicial day of the regular February term 1893 of the District Court in and for said Logan County, the Hon. J. H. Burford, Judge, presiding, came the Board of County Commissioners of Logan County, O.T., to-wit, G.P. Cooper, Chairman; Chris Johnson, J. J. Estes, Commissioners; and R. P. Morten, County Clerk of said County, and did make application to the court to hear and determine the amount of the outstanding indebtedness on bonds of the County, and to sign such bonds, which by the Board of County Commissioners had been determined to be issued for the refunding and payment of such outstanding bonded indebtedness; they at the same time filed the notice of said application together with proof of publication thereof and the Court after examining the notice and proof of publication did then and there find that due notice had been given in the manner required by law of such application and hearing, and further found that proof of such indebtedness was satisfactory, and then and there determined that the following bonds of said County are valid, subsisting and legal obligations of said County of Logan, and were duly issued by said County in conformity of law and that the said bonded indebtedness and each and every part thereof is of the kind and character authorized by Article 1, Chapter 7 of Session Laws of Oklahoma for the year 1890; that such bonds are as follows:

First: An issuance of County Refunding Bonds dated September 8th, 1891, amounting to \$10,000.00 absolutely due and payable 10 years from date, but subject to the right of the County to mature and redeem them at any time after three years from date, bearing interest at the rate of 6% per annum payable semi-annually.

Second: An issuance of \$45,000.00 Funding Bonds of the County, dated January 2nd, 1893, due and payable 10 years from date subject to the option of the County to mature and redeem the same any time after three years from date bearing interest at the rate of 6% per annum, payable annually, and that the above issuance of bonds had been duly and legally made under Provision of Article 2, Chapter 10 of the Compiled Statutes of the Territory of Oklahoma of the year 1890.

Third: An issuance of County Bonds to the amount of \$15,000.00 bearing date of May 2nd, 1893, bearing interest at the rate of 6% per annum payable semi-annually, to become due and payable 10 years from their date but subject to the option of the County to mature and redeem the same at any time; said last named issuance of bonds made under the authority of Chapter 7, Laws of 1893, and said Court further found that each of the above issues of bonds and each and every one of said bonds are legal, valid obligations of the County of Logan, and are of a character to be refunded under the provisions of Chapter 8, Laws of 1897, and Chapter 7, Laws of 1893, and other laws governing in such cases, and the Court further found that at the time each of the foregoing issues of bonds were made the total outstanding indebtedness of said County, did not exceed 4% of the

SUPREME COURT PROCEEDINGS IN VACATION.

then assessed valuation of taxable property of said County for Territorial and County taxes as shown by the assessment next preceding the date of their issuance; whereupon it was ordered by said Court that the Judge of said Court together with the attestation of the Clerk, with the signature and seal of said Court, do in open court proceed to sign the bonds of the County of Logan to be issued for the purpose of refunding such \$80,000.00 of the above described bonded indebtedness, such \$80,000.00 to be in denomination of \$1,000.00 each, bearing interest at the rate of 4 1/2% per annum, payable semi-annually and to be dated the 22nd day of May, 1899, and maturing in 10 equal annual series or instalments of eight bonds each, the first to become due on the 22nd day of May, in the year 1919, and one instalment or series of eight bonds to become due each year thereafter to and including the year 1929, each of said bonds having affixed the proper number of interest coupons, which coupons were executed by the fac-simile signature of the Chairman of the Board of County Commissioners, and the County Clerk lithographed thereon; that the Judge of said Court did then and there in open court proceed to and did sign each and all of the said refunding bonds which said signature was then and there attested by the signature of the Clerk under the seal of said Court, and at the same time, said bonds were signed by the Chairman of the Board of County Commissioners and the County Clerk aforesaid, and the bonds were then and there delivered in open court by the Judge of said court, to Ferdinand Ritterbush, County Treasurer of said Logan County, who thereupon executed his receipt therefor; that thereafter upon the same date, the 22nd day of May, 1899, said refunding bonds were then and there, by the proper officer and custodian duly presented to the said S. H. Hopkins, Territorial Auditor of Oklahoma Territory, for registration thereof in his office and for his certificate of the regularity of the issuance of the same endorsed on the back of each bond; that it was the duty of said Territorial Auditor, as such auditor, and so made his duty by the Statutes and Laws of this Territory, to make such said certificate on said bonds on their presentation to him for such purpose, after they had been so as aforesaid duly issued, and it was not a matter to be determined by him, or to determine therein for himself the legality of such issuance by such aforesaid authority, but it was his duty as Territorial Auditor to accept the determination of the said Commissioners Court and the said District Court to the fact of the legality of such issuance; that it was his duty, and a matter in which he had no discretion, to make such register of said bonds in his office and to make such certificate of the registry thereof in his office, and the legality of the issuance of said bonds endorsed on the back of each of them; this he has failed, neglected and refused to do, though requested and demanded of him that it be done.

Plaintiff further represents that said Logan County has negotiated the sale and disposal of said \$80,000.00 of bonds issued as aforesaid at the price and sum of \$80,000.00; that the said County will realize an actual saving in interest of 1 1/2, per annum on the whole amount of said issuance, and by fixing the maturity date of said indebtedness at such future time, this will enable said County to meet and pay its said indebtedness when due; that as such old indebtedness now stands, the taxation would be unreasonably high, if the people of said County were required to pay such debt within the time now limited for it to be paid and at the same time pay in addition thereto the current expenses of the County; the sale and disposal as aforesaid of said bonds cannot be legally made unless the said Territorial Auditor will make and endorse his certificate on the back of each bond, the same being the certificate above set out to the effect that such bonds were regularly issued and that they have been registered in his office, whereby, by the action of the said Territorial Auditor the County is deprived of the benefits accruing and to accrue from the issuance of said \$80,000.00 bonds, and the people of the County are injured in their rights to obtain such benefits; that the holders of the present outstanding bonds proposed to be matured and paid, are not injured, nor any contract with them violated by the action of the said County, at the present time, maturing and paying the outstanding bonded indebtedness; that unless the said Territorial Auditor will forthwith register said bonds and make said legal certificate thereon, the said Logan County and its citizens and tax payers will suffer irreparable injury and

SUPREME COURT PROCEEDINGS IN VACATION.

they have no other legal or equitable remedy to protect their rights in the premises except by this proceeding in mandamus.

WHEREFORE plaintiff moves and prays the court to grant alternative writ of mandamus directed as the law requires, and commanding the defendant as Territorial Auditor to appear before this Hon. Court at time and place to be named by the Court, then and there to register said bonds and make the proper and lawful certificate thereon, or to show cause why he should not be required to do so.

Edgar W. Jones, Co. Atty.

H. H. Howard,

Fulton & Chambers, Attorneys for Plaintiff

Territory of Oklahoma,)
County of Logan.) ss.

Before me the undersigned authority, this day personally appeared Edgar W. Jones, who upon his oath states that he has read and examined the foregoing motion and application for mandamus, and that the allegations therein contained are within his knowledge and are true.

Edgar W. Jones.

Subscribed and sworn to before me this 22 day of May, 1900.

T. A. Neal,
Deputy Clerk Dist. Court.

(SEAL)

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA,
TO THE JUNE TERM 1900.

The Territory of Oklahoma on the relation of Edgar W. Jones,	)	
County Attorney of Logan County, O.T.	) Plaintiff,	:
	)	:
vs.	)	Alternative Writ of Mandamus.
	)	:
S. N. Hopkins, Territorial Auditor of Oklahoma Territory,	)	
	) Defendant.	:

The Territory of Oklahoma to S. N. Hopkins, Territorial Auditor of Oklahoma Territory.

WHEREAS: On the application and affidavit of Edgar W. Jones, County Attorney of Logan County, O. T., acting for and in behalf of and as plaintiff in the above entitled cause, presented to me on the 22nd day of May, 1900, it was made known to me as one of the judges of the Supreme Court of the Territory of Oklahoma, that said Edgar W. Jones is the duly and legally elected, qualified and acting County Attorney of Logan County; that S. N. Hopkins is the duly qualified and acting Territorial Auditor of Oklahoma Territory, and resides in Logan County, O.T.; that heretofore to-wit, on the 3th day of May 1899, the Board of County Commissioners of Logan County, O.T., at a regular session of said Board then and there having before said Board of County Commissioners for consideration the question of refunding certain outstanding bonds of said Logan County, O.T. to-wit, \$20,000.00 of the funding bonds of the said County issued under date of September 6th, 1901, bearing interest at the rate of 6% per annum, payable annually, and being absolutely due and payable 10 years from their ^{date} but subject to the right of the County to mature and redeem the same at any time after three years from date, and \$45,000.00 funding bonds of said County dated January 2, 1898, bearing interest at the rate of 6% per annum, payable annually, and being absolutely due and payable 10 years from their date but subject to the right of the County to mature and redeem the same at any time after three years from date, which aforesaid bonds were issued under the provisions of Article 2, Chapter 10 of the compiled Statutes of 1890 of this Territory; and also \$10,000.00 of bonds of said County issued under date of May 2, 1899, bearing interest at the rate of 6% per annum and becoming absolutely due and payable 10 years after their date, subject to the right of the County to mature and redeem the same at any time after issuance, and issued under the provisions

SUPREME COURT PROCEEDINGS IN VACATION

of Article 2, Chapter 5 Session Laws of 1897 of said Territory; that upon consideration by the said Board of County Commissioners of the said subject, the said Board considered and found each and all the above described bonds duly and regularly issued under the authority of law, and that the County had regularly paid the interest thereon as the same became due, and that such indebtedness was a valid and legal bonded indebtedness owing by the said County; that in view of the high rate of interest which said bonds draw, and by refunding such outstanding bonds and indebtedness, a lower rate of interest could be had, that it was for the best interests of the County to avail itself of the option therein contained to mature said bonds and redeem the same, and to that end, to refund them, by issuing refunding bonds under the provision of the existing laws of this Territory, as may be found in Chapter 7 Session Laws of 1895 of said Territory, and amended by Chapter 5, Article 2 of the Laws of Oklahoma 1897, and other lawful authority; that for the purpose of so refunding and taking up said bonds of the County of Logan to the amount of \$80,000.00 to be issued under said Act and Laws aforesaid, which bonds to bear interest at the rate of 4 1/2% per annum, payable semi-annually, to be of the denomination of \$1,000.00 each, principal and interest of which to be payable in lawful money of the United States of America at the fiscal agency of the Territory of Oklahoma, in the City of New York, or in the event of the non-existence or discontinuance of said agency, then at the Chemical National Bank in the City of New York, and which bonds to be issued in 10 equal annual installments or series, the first series of installments of eight bonds each to become due and payable 20 years from their date, and one installment or series of eight bonds to become due and payable each year thereafter until the whole are paid; that of the \$80,000.00 of indebtedness so evidenced by the bonds aforesaid as heretofore issued by said Logan County, \$50,000.00 to be taken up by the issuance and sale of the refunding bonds therein provided for and \$3,000.00 of which indebtedness is proposed to be paid in cash by funds now on hand with the Treasurer of said County; that the said County Commissioners' Court further provided for a form of bond, in due and legal form with coupons attached, proper certificates, and all other things, being in form a valid, binding and legal obligation upon said County, which when being properly signed, certified and attested and when certified by the Territorial Auditor certifying thereto that such bond had been legally issued, and had been registered in his office, and providing for such certificate thereon on said bond as required by law, then to be a valid and binding negotiable obligation against said County.

The said Commissioners' Court then and there further ordered that said Board of County Commissioners and the County Clerk should appear before the District Court of Logan County, O.T. at the District Court room at Guthrie, in said County, on the 22nd day of May, 1899, at the hour of 10 o'clock a.m. of said day, then and there to make proof of the aforesaid indebtedness now outstanding, to-wit, the \$3,000.00 bonded indebtedness, and to secure said Court to hear and determine the amount, validity and character of said bonded indebtedness, and to procure said Court to sign said bonds pursuant to the requirements of law, and ordered that notice should be given by the proper clerk of the time and place of said application to such District Court in the manner required by law, which said notice was thereafter duly issued and given in the manner and form and for the length of time required by law; that thereafter on the 22nd day of May 1899, the same being a judicial day of the regular February term 1899, of the District Court in and for said Logan County, the Hon. J. E. Purford, Judge, presiding, came the Board of County Commissioners of Logan County, to-wit, O. T. Cooper, Chairman; Chris Johnson, J. J. Estus, Commissioners; and R. P. Morton, County Clerk of said County, and did make application to the Court to hear and determine the amount of the outstanding indebtedness on bonds of the County, and to sign such bonds, which by the Board of County Commissioners had been determined to be issued for the refunding and payment of such outstanding bonded indebtedness; they at the same time filed the notice of said application together with proof of publication thereof, and the Court after examining the notice and proof of publication did then and there find that due notice had been given in the manner required by law of such application and hearing, and further found that proof of such indebtedness was satisfactory, and then and there

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

determined that the following bonds of said County are valid, subsisting and legal obligations of said County of Logan, and were duly issued by said County in conformity of law, and that the said bonded indebtedness, and each and every part thereof is of the kind and character authorized by Article 1 of Chap. 7 of Session Laws of Oklahoma for the year 1895; that such bonds are as follows:

First: An issuance of County refunding bonds dated September 4th, 1891, amounting to \$20,000.00 absolutely due and payable 10 years from date, but subject to the right of the County to mature and redeem them at any time after three years from date, bearing interest at the rate of 6% per annum payable semi-annually.

Second: An issuance of \$45,000.00 funding bonds of the County dated January 2nd, 1893, due and payable 10 years from date subject to the option of the County to mature and redeem the same at any time after three years from date, bearing interest at the rate of 6% per annum, payable annually, and that each of the above issuances of bonds had been duly and legally made under provisions of Article 2, Chapter 10 of the Compiled Statutes of the Territory of Oklahoma of the year 1890.

Third: An issuance of County bonds to the amount of \$15,000.00 bearing date of May 2nd, 1898, bearing interest at the rate of 6% per annum payable semi-annually, to become due and payable 10 years from their date, but subject to the option of the County to mature and redeem the same at any time; said last named issuance of bonds made under the authority of Chapter 7, Laws of 1895, and said Court further found that each of the above issues of bonds and each and every one of said bonds are legal, valid obligations of the County of Logan, and are of a character to be refunded under the provisions of Chapter 8, Laws of 1897, and Chapter 7, Laws of 1895, and other Laws governing in such cases; and the Court further found that at the time each of the foregoing issues of bonds were made the total outstanding indebtedness of said County did not exceed 4% of the then assessed valuation of taxable property of said County for Territorial and County taxes, as shown by the assessment next preceding the date of their issuance; whereupon it was ordered by said Court that the Judge of said Court, together with the attestation of the Clerk, with the signature and seal of said Court, do in open Court proceed to sign the bonds of the County of Logan, to be issued for the purpose of refunding such \$80,000.00 of the above described bonded indebtedness, such \$80,000.00 to be in denomination of \$1,000.00 each, bearing interest at the rate of 4 1/2% per annum, payable semi-annually, and to be dated the 22nd day of May, 1899, and maturing in 10 equal annual series or installments of eight bonds each, the first to become due on the 22nd day of May, in the year 1919, and one installment or series of eight bonds to become due each year thereafter to and including the year 1929, each of said bonds having affixed the proper number of interest coupons, which coupons were executed by the facsimile signature of the Chairman of the Board of County Commissioners, and the County Clerk lithographed thereon; that the Judge of said Court did then and there in open Court proceed to, and did sign each and all of the said refunding bonds which said signature was then and there attested by the signature of the Clerk under the seal of said Court, and at the same time said bonds were signed by the Chairman of the Board of County Commissioners and the County Clerk aforesaid, and the bonds were then and there delivered in open Court by the Judge of said Court, to Ferdinand Ritterbusch, County Treasurer of said Logan County, who thereupon executed his receipt therefor; that thereafter upon the same date, the 22nd day of May, 1899, said refunding bonds were then and there by the proper officer and custodian, duly presented to the said S. M. Hopkins, Territorial Auditor of Oklahoma Territory, for registration thereof in his office, and for his certificate of the regularity of the issuance of the same endorsed on the back of each bond; that it was the duty of said Territorial Auditor, as such Auditor, and so made his duty by the Statutes and Laws of this Territory, to make such said certificate on said bonds on their presentation to him for such purpose, after they had been so as aforesaid duly issued, and it was not a matter to be determined by him, or to determine therein for himself, the legality of such issuance by such aforesaid authority, but it was his duty as Territorial Auditor, to accept the determination of the said Commissioners Court and the said District Court, as to the fact of the legality of such issuance; that it was his duty, and a matter in which he had no discretion, to make such

SUPREME COURT PROCEEDINGS IN VACATION.

register of said bonds in his office and the legality of the issuance of said bonds endorsed on the back of each of them; that this he has failed, neglected and refused to do, though requested and demanded of him that it be done; that said Logan County has negotiated the sale and disposal of said \$30,000.00 of bonds issued as aforesaid at the price and sum of \$30,000.00; that the said County will realize an actual saving in interest of $1\frac{1}{2}\%$ per annum on the whole amount of said issuance, and by fixing the maturity date of said indebtedness at some future time, this will enable said County to meet and pay its said indebtedness when due; that, as such old indebtedness now stands, the taxation would be unreasonably high if the people of said County were required to pay such debt within the time now limited for it to be paid, and at the same time pay, in addition thereto, the current expenses of the County; the sale and disposal as aforesaid of said bonds cannot be legally made unless the said Territorial Auditor will make and endorse his certificate on the back of each bond, the same being the certificate above set out to the effect that such bonds were regularly issued, and that they have been registered in his office, whereby, by the action of the said Territorial Auditor, the County is deprived of the benefits accruing and to accrue from the issuance of said \$30,000.00 bonds, and the people of the County are injured in their rights to obtain such benefits; that the holders of the present outstanding bonds proposed to be matured and paid, are not injured, nor any contract with them violated by the action of the said County, at the present time, maturing and paying the outstanding bonded indebtedness; that unless the said Territorial Auditor will forthwith register said bonds, and make said legal certificate thereon, the said Logan County and its citizens and tax payers will suffer irreparable injury, and they have no other legal or equitable remedy to protect their rights in the premises except by this proceeding in mandamus.

And whereas an alternative writ of mandamus has been by me granted and directed to be issued, returnable to the Supreme Court of the Territory of Oklahoma, to the June 1899 term of said Court, on the 5 day of June, 1899, at 10 o'clock a.m. of said day.

Wherefore you are hereby commanded to forthwith register said bonds in your office in due and lawful manner, and to endorse on the back of each of said bonds the fact of such registry by you and to make further certificate on the back of each of the said bonds that said bonds were legally issued; which such certificate you shall date, sign and seal as it appears you are in duty bound so to do; or you shall appear before the Hon. Supreme Court of the Territory of Oklahoma at the June term thereof at the Supreme Court rooms at Guthrie, O.T. on the 5 day of June, 1899, at 10 o'clock a.m. of said day, and then and there have you this writ with your answer thereto showing cause why you have not so obeyed this rule, and so register said bonds and so certified that said bonds were legally issued. Herein fail not.

It is further directed that service of this writ be made by delivery of this original writ to said S. N. Hopkins, Territorial Auditor of Oklahoma Territory, in person, 10 days before the return day hereof; that such service may be made by the Sheriff of Logan County, O.T., or any other proper person; that a certified copy of this writ be returned to the Clerk of the Supreme Court of Oklahoma Territory, by the person making service thereof, with his endorsement thereon, showing the time and manner of such service.

The Clerk of the Supreme Court of the Territory of Oklahoma will on receipt of such copy with officers return thereon, docket said cause as is styled in the motion and application for the writ, and will file all papers pertaining thereto.

In testimony whereof witness my hand this 22 day of May, 1899.

Jno. H. Barford,
Chief Justice.

SUPREME COURT PROCEEDINGS IN VACATION.

Territory of Oklahoma,) ss.
 Logan County.)

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA,
 TO THE JUNE TERM 1909.

The Territory of Oklahoma on the relation of
 Edgar Jones, County Attorney of Logan County, O.T.)
 Plaintiff,)

vs.)

Answer.)

S. W. Hopkins, Territorial Auditor of
 Oklahoma Territory, Defendant.)

Comes now S. W. Hopkins, Territorial Auditor of Oklahoma Territory, defendant in the above entitled cause, and returns into this Court the Writ of Mandamus heretofore served on him, and for reply and answer thereto says:

I.

It is here admitted that the said issue of bonds of Twenty Thousand Dollars (\$20,000.00) of Logan County, O.T. of date September 24th, 1901, and the issue of bonds of Forty-five Thousand Dollars (\$45,000.00) of said County of date January 2nd, 1903, mentioned and set out in said writ were each and all of them regularly issued and are now valid and binding obligations of said Logan County; that said bonds do draw the rate of interest and are due and payable as is set out in said writ.

It is further admitted that beginning with the proceedings of the County Commissioners Court of Logan County, O.T. of date May 3th, 1907, which proceedings begun and had to secure the issuance of Eighty Thousand Dollars (\$80,000.00) refunding bonds to mature, take up and pay off the aforesaid Sixty-five Thousand Dollars (\$65,000.00) bonded indebtedness of said County, and other Eighteen Thousand Dollar (\$18,000.00) bonded indebtedness of said County, including the final proceedings had in the District Court of Logan County, O.T. before the Hon. J. H. Farford, District Judge, holding said Court, in the finally signing of said Eighty Thousand Dollars bonded issue and turning them over to Ferdinand Ritterbush, Treasurer of Logan County, and the presenting of said bonds to me as Territorial Auditor, to be registered and certified thereon, were each and all, the said proceedings of said County Commissioners Court and of said District Court and said District Judge and said County Treasurer, done and performed as is set out in said writ of mandamus, and that I refused to register said bonds or to make the required certificate thereon, is also admitted.

II.

It is here denied that the issuance of the said Eighteen Thousand Dollars (\$18,000.00) bonds mentioned in said writ of date May 3th, 1907, were in the first instance legally issued. It is denied that under Article 2, Chapter 8, Acts 1907, that Logan County could issue the said bonds because the act applies to municipalities only, and that Logan County was not then and is not now such a municipality as is contemplated in said Act.

III.

It is denied that Logan County, O.T. can make the bond issue of Eighty Thousand Dollars (\$80,000.00) set out in the writ of mandamus; and it is denied that said Eighty Thousand Dollar (\$80,000.00) bond issue would be a legal, valid and binding obligation against said County if so issued, registered and certified as demanded, for the following reasons:

1st: That the purpose and effect of the issuance of said bonds would be the funding of outstanding bonds of said County, not yet due but merely subject to the option of redemption on the part of the County.

2nd: That Section 1, Chapter 7, Laws of 1907 under which said bonds are proposed to be issued, treats of and provides legislation that is not mentioned or included in the title of said Act Chapter 7, in this,

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

that this Section (Section 6) provides for the refunding of outstanding bonded indebtedness, while the title of the Act provides only for the funding of outstanding warrant indebtedness.

Wherefore, the defendant having fully answered in this behalf, he asks judgment on his answer; that the alternative writ heretofore issued and served on him in this cause, be quashed and set aside, and that he be relieved and discharged from certifying and registering said bonds as demanded in said writ, and that he go hence with his costs and for general and special relief.

Territory of Oklahoma,)
) ss.
Logan County.)

S. N. Hopkins, upon his oath says that he is Territorial Auditor of Oklahoma Territory above named; that he has read the above and foregoing answer to the alternative writ of mandamus in this case, and that the matters and things set forth in his answer are true as he verily believes.

S. N. Hopkins,

Territorial Auditor.

Subscribed and sworn to before me this 3rd day of June, 1902.

Chas. W. Brewer,
Notary Public,
Com. Ex. 12-1-1902.

(Seal)

Territory of Oklahoma,)
) ss.
Logan County.)

I N T H E S U P R E M E C O U R T O F T H E T E R R I T O R Y O F O K L A H O M A ,

T O T H E J U N E T E R M 1 9 0 2 .

The Territory of Oklahoma on the relation of Edgar Jones, County Attorney of Logan County, O.T.	)	
Plaintiff,	)	
vs.	)	Demurrer.
S. N. Hopkins, Territorial Auditor of Oklahoma Territory.	)	
Defendant.	)	

Comes now the plaintiff and demurs to the answer of the defendant herein filed for the reason that the said answer does not state facts sufficient to constitute a defense to the writ of mandamus heretofore issued in this cause, or to justify the defendant, Auditor, in refusing to register and certify said bonds.

Fulton & Charters,

| Jones & Devereaux, Att'ys for plaintiff.

The Territory of Oklahoma
ex rel Edgar W. Jones,
County Attorney Logan County, O.T.
Plaintiff,
vs.

S. N. Hopkins, Territorial
Auditor of Oklahoma Territory,
Defendant.

And now this cause comes on for decision upon the demurrer to the answer herein. And the Court having duly considered said demurrer, and being fully advised in the premises finds that the same should be sustained, and the peremptory writ ordered at the cost of respondent.

It is therefore ordered and adjudged by the Court that the demurrer to the answer herein be and the same is hereby sustained.

It is further ordered by the Court that the peremptory writ issue herein at the cost of respondent.

102

SUPREME COURT PROCEEDINGS IN VACATION.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA,

June Term 1899.

The Territory of Oklahoma, on the relation
of Edgar W. Jones, County Attorney of
Logan County, Oklahoma Territory,

vs.

S. N. Hopkins, Territorial Auditor of the
Territory of Oklahoma,

Defendant.

Peremptory Writ of Mandamus.

The Territory of Oklahoma, to S. N. Hopkins, Territorial Auditor of Oklahoma:

WHEREAS, on the application and affidavit of Edgar W. Jones, County Attorney of Logan County, Oklahoma Territory, acting for and on behalf of the plaintiff in the above entitled cause, was on the 22nd day of May, 1899, presented to the Hon. John H. Burford, Chief Justice of the Supreme Court of Oklahoma, whereupon, an alternative writ of mandamus was issued to the plaintiff above named, which said writ was returnable before this court on the 6th day of June, 1899; and WHEREAS said S. N. Hopkins, Territorial Auditor, duly made return to said writ on said date; and WHEREAS said cause was fully argued before this court in open court on the 7th day of June, A.D. 1899, and it now appearing to the Court that Edgar W. Jones was the duly and legally elected, qualified and acting County Attorney of Logan County, O.T.; that S. N. Hopkins is the duly appointed, qualified and acting Territorial Auditor of Oklahoma Territory, and that he resides and has his official place of business in Logan County, O.T.; that heretofore to-wit, on the 6th day of May, 1899, the Board of County Commissioners of Logan County, O.T., at a regular session of said Board, then and there having before them for consideration the question of refunding certain outstanding bonds of said Logan County, O.T. to-wit: Twenty thousand dollars of the funding bonds of said county, issued under date of September 4th, 1891, bearing interest at the rate of six per cent per annum, payable annually, and being absolutely due and payable ten years from their date, but subject to the right of the county to mature and redeem the same at any time after three years from date, and forty-five thousand dollars funding bonds of said county of Logan, dated January 2nd, 1893, bearing interest at the rate of six per cent per annum, payable annually, and being absolutely due and payable ten years from their date, but subject to the right of the county to mature and redeem the same at any time after three years from date, which aforesaid bonds were issued under the provisions of article 2, chapter 10 of the compiled statutes of 1890 of Oklahoma Territory; and also eighteen thousand dollars of the judgment bonds of said county, issued under date of May 2nd, 1896, bearing interest at the rate of six per cent per annum, and becoming absolutely due and payable ten years after their date, subject to the right of the county to mature and redeem the same at any time after issuance, and issued under the provisions of article 2, chapter 3, Session Laws of 1897, of said territory; that upon consideration by the said Board of County Commissioners of said subject, that said Board considered and found each and all the above described bonds duly and regularly issued under the authority of law, and that the county had regularly paid the interest thereon as the same became due and that such indebtedness was a valid and legal bonded indebtedness owing to the said county; that in view of the high rate of interest which said bonds draw, and by funding such outstanding bonds and indebtedness, a lower rate of interest could be had, that it was for the best interests of the county to avail itself of the option therein contained to mature and redeem said bonds, and to that end to refund them, by issuing refunding bonds under the provisions of the existing laws of this Territory, as may be found in chapter 7, Session Laws of 1898, of said Territory, and amended by chapter 1, article 2, of the Laws of Oklahoma 1897, and other lawful authority; that for the purpose of so refunding and taking up said bonds of the county of Logan, to the amount of eighty thousand dollars, to be issued under said act and laws aforesaid, which bonds to bear interest at the rate of four and one half per cent per annum, payable semi-annually, to be of the denomination of one thousand dollars each, principal and interest of which to be payable in lawful money of the

SUPREME COURT PROCEEDINGS IN VACATION.

United States of America, at the Fiscal Agency of the Territory of Oklahoma, in the City of New York, or in the event of the non-existing or discontinuance of said Agency, then at the Chemical National Bank in the City of New York, and which bonds to be issued in 10 equal annual installments or series, the first series or installment of eight bonds each to become due and payable twenty-one years from their date, and one installment or series of eight bonds to become due and payable each year thereafter until the whole are paid; that of the eighty-three thousand dollars of indebtedness so evidenced by the bonds aforesaid, as heretofore issued by said Logan County, eighty thousand dollars to be taken up by the issuance and sale of the refunding bonds therein provided for, and three thousand dollars of which indebtedness is proposed to be paid in cash by bonds now on hand with the treasurer of said county; that the said County Commissioners' Court further provided for a form of bond, in due and legal form, with coupons attached, proper certificates and all other things, being in form a valid, legal and binding obligation upon said county, which when being properly signed, certified and attested, and when certified by the Territorial Auditor, certifying thereto that such bonds had been legally issued and had been registered in his office, and providing for said certificate thereon on said bonds as required by law, then to be a valid and binding negotiable obligation against said county.

The said County Commissioners' Court then and there further ordered that said Board of County Commissioners and the County Clerk should appear before the District Court of Logan County, O.T. at the District Court room, at Guthrie, in said county, on the 22nd day of May, 1900, at the hour of ten o'clock a.m. of said day, then and there to make proof of the aforesaid indebtedness now outstanding, to-wit: the eighty-three thousand dollars of bonded indebtedness, and to procure said court to hear and determine the amount, validity and character of said bonded indebtedness, and to procure said court to sign said bonds pursuant to the requirements of law, and ordered that notice should be given by the proper clerk of the time and place of said application to the District court, in the manner required by law, which said notice was thereafter duly issued, and given in the manner and form and for the length of time required by law; that thereafter on the 22nd day of May, 1900, the same being a judicial day of the regular February term, 1900, of the District Court in and for said Logan County, the Hon. J. H. Burford presiding, came the Board of County Commissioners of Logan County to-wit: O. P. Cooper, Chairman, Chris Johnson, J. J. Estus, Commissioners, and R. P. Morton, County Clerk of said County, and did make application to the court to hear and determine the amount of the outstanding indebtedness on bonds of the county, and to sign said bonds, which by the Board of County Commissioners had been determined to be issued for the refunding and payment of such outstanding indebtedness; they at the same time filed the notice of said application, together with proof of publication thereof, and the court after examining the notice and proof of publication, did then and there find that due notice had been given in the manner required by law of such application and hearing, and further found that proof of such indebtedness was satisfactory, and then and there determined that the following bonds of said county are valid, existing, and legal obligations of said County of Logan, and were duly issued by said county, in conformity to law, and that said bonded indebtedness and each and every part thereof, is of the kind and character authorized by Article 1 of Chapter 7 of the Session Laws of Oklahoma, for the year 1898, and that such bonds are as follows:

First: An issuance of County refunding bonds dated September 1st, 1901, known as Series A. amounting to twenty thousand dollars, absolutely due and payable ten years from their date, but subject to the right of the County to mature and redeem them at any time after three years from their date, bearing interest at the rate of six per cent per annum payable annually;

Second, an issuance of forty-five thousand dollars funding bonds of the County of Logan, dated January 2nd, 1900, absolutely due and payable ten years from their date, but subject to the option of the County of Logan, to mature and redeem the same at any time after three years from their date, which said bonds bear interest at the rate of six per cent per annum, payable annually, and that each of the above issuances of bonds had been duly and legally made, under the provisions of article 2, chapter 10 of the compiled Statutes

SUPREME COURT PROCEEDINGS IN VACATION.

of the Territory of Oklahoma, of the year 1900.

Third: An issuance of County bonds known as judgment bonds, to the amount of eighteen thousand dollars, bearing date the second day of May, 1898, bearing interest at the rate of 6 per cent per annum, payable semi-annually, to become due and payable ten years from their date but subject to the right of the county to mature and redeem the same at any time, which said last issue of bonds was made under the authority of Chapter 7, Laws of 1896, and said court further found that each of the above issues of bonds, and each and every one of said bonds are legal, valid and rat red obligations of the County of Logan, and of the character to be refunded under the provisions of Chapter Five, Laws of 1897, and chapter 7, Laws of 1898, and the court further found, that at the time of the issuance of each of the foregoing bonds were made, the total outstanding indebtedness of said county did not then exceed four per cent. of the then assessed valuation of taxable property of said county, for Territorial and County taxes, as shown by the assessment next preceding the date of their issue; and that at this time, the total indebtedness of said county did not exceed four per cent of the assessed valuation; whereupon, it was ordered by said court that the Judge of said court, together with the attestation of the Clerk, with the signature and seal of said Clerk, do proceed to sign the said bonds, to be issued for the purpose of refunding such eighty thousand dollars of the above described bonded indebtedness of Logan County, and that the Judge of said court did then and there in open court proceed to and did sign each and all of the said refunding bonds, which said signature was then and there attested by the signature of the Clerk, under the seal of said court, and at the time said bonds were signed by the Chairman of the Board of County Commissioners of the said County, and the Clerk thereof, and the bonds were then and there delivered in open court, by the Clerk of said Court, to Ferdinand Ritterbush, County Treasurer of Logan County, who thereupon executed his receipt therefor; and that thereafter upon the same date, to-wit, the 22nd day of May, 1899, said refunding bonds, were, by the said Ferdinand Ritterbush, County Treasurer, duly presented to S. N. Hopkins, Territorial Auditor of Oklahoma Territory, for registration thereof in his office, and for his certificate of the regularity of the issuance of the same, endorsed on the back of each bond; that this, he the said Auditor, has failed, neglected and refused to do, though requested and demanded of him that it be done, and WHEREAS, the said Auditor, defendant above named, has filed his return and answer to the ALTERNATIVE WRIT OF MANDAMUS heretofore issued out of this Court, and whereas, upon consideration of said return, it was considered by this court that the said three series of bonds of Logan County above set out are now due, and matured obligations of the County of Logan; that the same were duly and regularly issued, and that the same are legal obligations of said County; and that the return of said Auditor, to said Alternative writ of Mandamus, shows no sufficient reason in law, why he should not register said bonds as required by law, but that all of said reasons and matters set out in said answer and return are insufficient to warrant such refusal.

THEREFORE, the said defendant S. N. Hopkins is hereby peremptorily commanded to forthwith register said bonds above set out, and each and every one of the said bonds in his office, in due and legal manner, and to endorse on the back of each of said bonds the fact of such registry by him, and to make further certificate on the back of each of said bonds that the said bonds were regularly issued, which said certificate he shall sign as he is in duty bound to do, and that he appear before this Honorable Court, on the 12th day of June, A.D. 1900, that being a regular judicial day of the June term, A.D. 1899 of said court, and he shall then and there make return to this court showing that he has fully and in all respects obeyed this writ.

It is further directed that service of this writ be made on said S. N. Hopkins, Territorial Auditor of Oklahoma Territory, by the Sheriff of Logan County, O.T., and that he return the same with his endorsement showing time and manner of service.

Jno. H. Furford,

Chief Justice.

This June 12, 1900.

SUPREME COURT PROCEEDINGS IN VACATION.

In the Supreme Court of the Territory of Oklahoma.

J. B. Beaver,

Relator,

vs.

#893.

L. Haynes Buxton, Superintendent
of Territorial Board of Health,

Respondent.

ANSWER.

Now comes the above named respondent, L. Haynes Buxton, as Superintendent of Territorial Board of Health, Territory of Oklahoma, and for answer to the alternative writ of mandamus heretofore granted in the above entitled cause states:

FIRST CAUSE OF DEFENSE.

That at no time prior to the bringing of this action did the above named relator present to this respondent or to the Territorial Board of Health, a diploma issued by any medical college, nor did said relator present to this respondent nor to the Territorial Board of Health a diploma purporting to have been issued by the Independent Medical College of Chicago, Illinois, as in the alternative writ stated; nor did said relator at any time prior to the bringing of this action prove or offer to prove, by affidavit or otherwise, to said respondent or Territorial Board of Health that any diploma issued to him by any medical college or by said Independent Medical College of Chicago had been lost or destroyed, and respondent further states that the only proof or evidence of qualification of relator to engage in the practice of medicine in said Territory was the application hereto attached, and a part hereof and marked "Exhibit A," which said proof and application were by respondent rejected as insufficient; respondent further states that the fee of two dollars, mentioned in said alternative writ, was promptly returned by respondent to relator.

SECOND CAUSE OF DEFENSE.

That on the day of February, 1898, and prior to the issuance by the Independent Medical College of Chicago of the alleged diploma to relator herein the Attorney General of the State of Illinois, in the name of the people of the State of Illinois, commenced an action in the Circuit Court of Cook County, in the State of Illinois, in the nature of proceedings in quo warranto against said Independent Medical College of Chicago, Illinois, for the purpose of annulling the charter of said Independent Medical College; that afterwards and upon the issue joined in said action trial was had in said Circuit Court of Cook County, Illinois, and prior to the commencement of this action judgment entered therein against said Independent Medical College, which judgment is in words and figures as follows, to-wit:

"That the said Independent Medical College, defendant herein, be and the same is hereby ousted and excluded from the exercise of all corporate privileges and franchises under its articles of incorporation, filed in the Secretary of State's office, October twentieth (20th), 1896, and the certificate of the Secretary of State bearing date October twentieth (20th), 1896, certifying, 'that the said Independent Medical College is a legally organized corporation under the laws of this state, and that the said Independent Medical College is and the same is declared and excluded from the exercise of any and all corporate powers and franchises granted or permitted to it by said articles of incorporation and certificate and that the said people of the State of Illinois recover their costs in this behalf expended, to be taxed by the Clerk of the court, and that execution issue therefor as in other cases.'"

That said judgment is now in full force and effect.

THIRD CAUSE OF DEFENSE.

Respondent further states that, heretofore, and on to-wit, the 22nd day of June, 1898, and at the time at which said alternative herein alleges a diploma to have been issued by the Independent Medical college of Chicago, Illinois, to the above named relator, said corporation was not a medical college and respondent states the facts as to the existence of said Independent Medical College to be as follows, to-wit:

That heretofore and on, to-wit, the 18th day of October, A.D. 1896, there was presented to and filed with the Secretary of State of the said State of Illinois, a certain paper or instrument in writing, of which the

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

Following is a true copy:

State of Illinois,)

ss.

Cook County.)

To William H. Hinrichsen, Secretary of State:

We, the undersigned, C. K. Drumbeller, Thomas Armstrong, J. Armstrong and Charles H. Hovey, citizens of the United States, propose to form a corporation under an act of the General Assembly of the State of Illinois, entitled "An Act Concerning Corporations," approved April 18, 1872, and all acts amendatory thereof, and for the purpose of such organization we hereby state as follows, to-wit:

1. The name of such corporation is Independent Medical College.
2. The object for which it is formed is for the purpose of establishing in said county and state an institution of learning to be known as the

INDEPENDENT MEDICAL COLLEGE

with corporate form and powers in accordance with the statutes for such causes made and provided for the purpose of promoting mental and physical culture, and for teaching Anatomy, Physiology, Toxicology, Gynecology, Materia-Medica, Therapeutics, Surgery, Chemistry, Pharmacy, or any other branches taught in medical institutions generally; with additional studies of new developments in Electrology, Magnetology, Psychology, Chromopathy, and using all the finer forces of nature that may contribute to the relief of suffering humanity and promote happiness and longevity; and educate the people with the liberal and progressive principles of medicine and science and arts that may contribute to emulate and elevate mental and physical culture to the nobler purposes of life with privileges, rights and immunities enjoyed by other institutions of learning in this state and all other states of the United States to examine or instruct persons in any or all branches pertaining to medical science and to grant to students and applicants for graduation the degree of M. D. Ph. G. or any other appropriate degree under such rules and regulations as the board of directors may prescribe; and all persons receiving such degrees in Medicine, Pharmacy, Chemistry and any other branch of study or learning taught shall be entitled to all the rights and privileges in this and other states to which students and graduates are entitled who receive diplomas from other medical colleges, universities and institutions in the State of Illinois. This institution may train and qualify nurses in a course especially to be set apart for that purpose, and may also establish a dispensary where medical treatment shall be free to all at a specified time, daily or otherwise, and according to the principles of medicine taught in said college, we being associated with others for the purpose of curing and educating the people.

3. The management of the aforesaid corporation shall be vested in a board of four directors, who are to be elected annually.

4. The following persons are hereby selected as the directors to control and manage said corporation for the first year of its corporate existence, viz: C. K. Drumbeller, Thos. Armstrong, J. Armstrong and Chas. H. Hovey.

5. The location is in Chicago, in the County of Cook, State of Illinois.

(Signed)

C. K. Drumbeller,
Thos. Armstrong,
J. Armstrong,
Chas. H. Hovey.

(On the back of same is the following:)
State of Illinois,)

ss.

Cook County.)

I, A. E. Whitney, a Notary Public, in and for the county and state aforesaid do hereby certify that on the 18th day of October, A.D. 1890, personally appeared C. K. Drumbeller, Thomas Armstrong, J. Armstrong and Charles H. Hovey to me personally known to be the same persons who executed the foregoing certificate, and severally acknowledged that they had executed the same for the purposes therein set forth.

In witness whereof, I have hereunto set my hand and seal the day and year above written.

A. E. Whitney,
Notary Public."

(Notarial Seal)

That said paper or instrument in writing above quoted was the only paper or instrument filed with the Secretary of State, and that thereupon the said Secretary of State issued to the said Independent Medical College a certificate of organization as follows:

State of Illinois,
Department of State.
William H. Hinrichsen, Secretary of State.

To all to whom these presents shall come -- Greeting:

Whereas, A Certificate, duly signed and acknowledged, having been filed in the office of the Secretary of State on the 20th day of October, A.D. 1890, for the organization of the

INDEPENDENT MEDICAL COLLEGE.

under and in accordance with the provisions of "An Act Concerning Corporations," approved April 18, 1872, and in force July 1, 1872, a copy of which certificate is hereto attached.

Now therefore, I, William H. Hinrichsen, Secretary of State of the State of Illinois, by virtue of the powers and duties vested in me by law, do hereby certify that the said Independent Medical College is a legally organized corporation under the laws of this state.

In testimony whereof, I hereto set my hand, and cause to be affixed the Great Seal of State. Done at the City of Springfield, this 20th day of October in the year of our Lord one thousand eight hundred and ninety-six and of the Independence of the United States one hundred and twenty-first.

(Seal) W. H. Hinrichsen, Secretary of State.

That said paper or instrument in writing and said certificate of organization were filed and issued under Secs. 29 and 30 of an act entitled "An Act concerning corporations," approved April 18, 1872, but whether said certificate of organization was recorded in the office of the Recorder of Deeds of Cook County, where said corporation is located, the said respondent is not informed and cannot state.

That the said paper or instrument in writing upon which the said certificate of organization was based was and is, in many respects, misleading and untrue; that in truth and in fact the said Independent Medical

SUPREME COURT PROCEEDINGS IN VACATION.

College was designed by the incorporators thereof as an organization or corporation for pecuniary profit, and has been so managed and conducted since the date of its organization, and should have been organized, if at all, under these provisions of the statute concerning the organization of corporations for pecuniary profit, and that in truth and in fact the said corporation was not organized in good faith for the purposes in said instrument in writing mentioned, but was organized and has been maintained and conducted for pecuniary profit of the incorporators and other persons interested.

That said Independent Medical College professed to be engaged in conducting a medical institution under and by virtue of its said certificate of organization, and issued diplomas and conferred the degree of Doctor of Medicine and other appropriate medical degrees in accordance with a scheme outlined in its said instrument in writing presented to the Secretary of State. But respondent charges and states the fact to be that the said Independent Medical College is not and was not engaged in conducting a medical institution where the science of medicine is taught, and instructing students in the science of surgery, and is not and was not engaged in the business specified in said instrument in writing presented to the secretary of State as aforesaid.

That it advertised through its pamphlets and circulars, that it was engaged in the unlawful and disreputable business of assisting persons to procure licenses to practice medicine in the states of Ohio, Michigan, Wisconsin, Indiana, Idaho, Kansas, Texas, and such other states as do not require the diploma of a reputable medical college or a medical examination before a board created by law for the purpose, as a condition precedent to practicing medicine therein. That the said Independent Medical College did not require a personal attendance by applicants for degrees and diplomas and as Doctor of Medicine, but sent upon application, to the applicant, a list of questions to be answered by such applicant and returned to the said Independent Medical College. That a personal examination of such applicant was not required by said pretended medical college. That upon a payment by him of the agreed amount, the said Independent Medical College conferred or attempted to confer upon the applicant the degree of Doctor of Medicine and other medical degrees, and upon the certificate of such degree issued by the said Independent Medical College, such applicant began the practice of medicine in some of the aforesaid states or any other localities, places or countries. That the system of teaching the science of medicine practiced by the said Independent Medical College was not within the purview of its said certificate of organization, and that in conferring degrees as aforesaid, said corporation acted without warrant or authority of law and has usurped the right to so conduct said business as an alleged medical college without warrant or authority of law.

That said Independent Medical College did not prescribe a fixed time during which applicants for degrees should pursue the study of medicine, but when questions so sent as aforesaid to applicants for degrees had been answered, and sometimes before such questions were answered, or returned to the said Independent Medical College, the degree of Doctor of Medicine is conferred upon such applicant or applicants, and that such system of conferring degrees is dangerous to the health of the people of this and other countries, and was not contemplated or intended in the issue of said certificate of organization, and that so conferring said degrees is a usurpation of power upon the part of the Independent Medical College and is without warrant or authority of law.

That the Independent Medical College through its officers, scattered pamphlets and circulars broadcast, thereby intending to create a prejudice in the minds of the people of the state of Illinois against the salutary laws of this State, which said laws are designed to protect the people from imposition and fraud, both in medicine and surgery. That said circulars and pamphlets are so framed as to direct the attention of individuals to the supposed fact that by obtaining a diploma from the Independent Medical College, they can be admitted to the practice of medicine in certain states and localities without examination, and informant charges that the issue of such circulars and pamphlets is not reputable, and is calculated to induce illiterate

SUPREME COURT PROCEEDINGS IN VACATION.

and incompetent persons to apply for and receive the degree of Doctor of Medicine, and that said Independent Medical College, by reason of the premises, has conferred said degree upon persons who are wholly incompetent and incapable of administering to the wants of the sick and suffering, and that the power and right to so conduct said institution is not conferred upon it by said certificate of organization and the right to so issue degrees by said supposed corporation is violative of the condition of said certificate of organization, and is a usurpation of right and power by said Independent Medical College, and without any warrant or authority of law whatsoever.

That the said Independent Medical College advertised and published to the world that it is "physio-medical chartered on the Chautauqua plan; students receive instruction at home preliminary to a thorough course in the college, in all the branches of medicine. Students can be graduated as soon as they are able to pass examination, and demonstrate that they are competent to conduct a safe practice," but in truth and in fact students of the said Independent Medical College did not receive a thorough course in all the branches of medicine, and in some cases received no instruction at home preliminary to the issuing of diplomas to applicants or supposed students of such medical college.

The said Independent Medical College also published and sent out to candidates desiring to graduate from such institution, a printed list of questions with form of affidavit attached, which said printed list of questions and form of affidavit so issued by the said Independence Medical College is as follows:

IMPORTANT TO CANDIDATES DESIRING TO GRADUATE.

We inclose you a list of questions. Please answer and return with affidavit as directed. If you cannot answer all of said questions, kindly answer what you can to the best of your knowledge and ability. This will place us in a position to judge of your qualifications and inform you what books will be needed and the length of time required for you to qualify for graduation.

A great many men and women have, by reading and practice at home, acquired a better medical education than many M.D.'s who have spent years in college. Send proof that you have practiced successfully and this will excuse you answering many of the questions.

Those that have not made any preparation will require considerable time to fit them for the practice of medicine, but by the proper course of study, and reading the proper books, they can be fully equipped much sooner than many suppose.

Following are a list of said questions:

Define Anatomy, Physiology, Hygiene, Materia Medica, Therapeutics, Obstetrics and Surgery, and mention ten important facts relating to each branch that a physician should know in order to be a successful practitioner; also give reasons substantially proving that the facts mentioned are of genuine benefit and absolutely essential in the treatment of the different forms of disease.

To illustrate: A student might be able to name every bone and muscle in the body, and make an entire failure in treating simple cases, while one who did not possess one-tenth of said knowledge might succeed. We want you to possess the knowledge that will enable you to cure your patients. No amount of superfluous nonsense so extensively taught in Honorary colleges and called "Medical Science" will fill the bill.

Carefully dissect every fact given in your answers and ask yourself the question, will said knowledge actually enable me to cure my patients, if not, what knowledge can I acquire that will, and what is the quickest way for me to acquire it?

Outline your treatment for the following forms of disease, and state what medicine, "if any," you would give in such cases, or on what you would chiefly rely to effect a cure -- asthma, bronchitis, cancer in the first stages, typhoid fever, jaundice, malaria, neuralgia, paralysis, piles, pleurisy, polypus, nervous prostration, rheumatic fever, rheumatism, sciatica, scrofula, sleeplessness, St Vitus Dance, ovarian tumors, fibrous tumors, or any other forms of disease you have treated or think you can treat successfully.

Name ten remedies that you consider good medicines to give the sick, and describe their medical properties. On what do you chiefly rely to effect cures?

What do you understand by the Allopathic system of medicine, and do you approve of it? if not, why?

What system do you approve of? Answer some questions in regard to the Homeopathic, the Electric, Physio-Medical and Hydropathic systems. Do you consider it in accordance with science, reason or common sense, to give to the sick such agents as arsenic, strychnine, morphine, calomel, aconite, digitalis, and the numerous poisons so extensively used in medical practice?

State what medical books you now own and have studied, length of time you have spent in the study of medicine at home, under a preceptor, or in a medical college. Name college or colleges attended, if any, and state any other facts going to show what opportunities you have had to become a competent practitioner.

If you have practiced, state number of years, and send if you can sworn statements from patients to the effect that you have treated them successfully, especially send affidavits of cures effected by you after "so-called" highly educated medical monopoly college graduates failed.

State name of notary public before whom you are willing to go and answer another list of questions on the treatment of different forms of disease without having access to said questions. State if you consider yourself qualified to conduct a safe practice. If you will carefully of your own knowledge "alone" answer said questions to the best of your ability and we should consider you deficient in some respects, we will carefully point out said deficiency and how to acquire the knowledge you lack in the shortest time.

Send letters of recommendation from three or more prominent and responsible citizens as to your moral standing, and if you have practiced, as to your professional ability. Have answers typewritten if convenient, if not write plainly on legal or foolscap and make affidavit as follows:

I (name in full) do solemnly swear that the foregoing are my answers to the questions asked me by the faculty of the Independent Medical College, and are given of my own knowledge without copying from book or without any assistance by my own mental faculties, and that said knowledge has been acquired by a careful study of medical works and by my own experience, and that the other statements therein contained are true to the best of my knowledge and belief. Have statements and answers sworn to before notary public and mailed to us.

J. Armstrong, M.D. President. Independent Medical College, People's Institute Bldg., VanBuren & Leavitt Streets, Chicago.

SUPREME COURT PROCEEDINGS IN VACATION.

Respondent further states, as illustrative of the methods of doing business and manner of issuing diplomas, conferring degrees of medicine upon applicants, that respondent is informed and believes and therefore states as a fact that on or about November 1, 1897, one A. H. Weiss, of Harrington, Kent Co., in the State Delaware, addressed a letter to J. Armstrong, president and treasurer of said alleged corporation, a copy of which is as follows:

Harrington, Delaware, Nov. 1, 1897.

Dr. J. Armstrong, Chicago, Ill.

Dear Sir:- I am informed by a friend who holds one of your diplomas that you furnish a book teaching a new system; that by using your system I can learn sufficient in a few months to begin to practice on chronic cases. I have a sure cure for tetter and piles. I want to go to Central America in about two weeks. The boat leaves Baltimore on the 15th, and I want a diploma when I start. I have but fifty dollars and must have a little for the journey. If you will send me a diploma and your book C.O.D. for \$25, I will agree to send you the balance \$50 in the spring as soon as I make it. My friend says your price is \$75, which he paid. I will agree to not use the diploma in this country and further agree to not use any but my old remedies until I have fully mastered your system. Send the diploma to A. H. Weiss, of Granada, Nicaragua. Please do not let it be known that I have bought a diploma.

Yours,

A. H. Weiss, Harrington, Kent Co. Del.

That in reply to said letter the said J. Armstrong on behalf of the said Independent Medical College, wrote and mailed to said Weiss the following letter:-

Chicago, Ill. Nov. 3, 1897.

A. H. Weiss, Harrington, Del.

Dear Sir:- There are some of the facts in regard to our institution you have got correct and some you are quite mistaken on. In the first place we do not sell diplomas, but if you can make a showing that will justify us in granting a diploma conferring the degree of M. D. we will be pleased to do anything for you that we can do honorably and legally.

We would suggest that you answer the questions in the list relating to practice, and send any letters you can from parties you have treated for the diseases you mention in your letter. Also answer the questions in relation to the use of poisons.

We send you a book by Dr. Bland, one of our faculty, and by reading this carefully you will get an idea of our system and fundamental principles. We want to in some way understand as correctly as possible what your present medical qualifications are.

Kindly ask the physician who graduated from our school that you refer to, to write us, stating as near as he can what he knows of your medical ability and moral standing, and your success in practice. We do not consider that any school turns out graduates that are fully competent to practice, they must have practical work before they are fully qualified, and should you make a showing that will entitle you to graduate now or very soon, remember that graduation is but a step. You will have to learn for a whole life-time. You will notice in the slip of questions that you are asked to mention ten important facts relating to each branch of study and also in regard to practice on the different forms of disease, and the use of poisons.

We will be pleased to hear from you at an early date, and if you can send what will satisfy us as to your medical ability and moral standing, we will be able to graduate you in the near future.

Very truly yours,

J. Armstrong.

And in reply to the said letter of the said Armstrong, said Weiss addressed to the said Armstrong the following letter:

Harrington, Del., Nov. 8, 1897.

Dr. J. Armstrong,

Dear Sir:- Your letter, also book received, Saturday. I thank you for your prompt attention to this, but am disappointed that you did not send the diploma. I have not time before I start to comply fully with your requirements, but since I have been in a doctor's office for over two years you may not require more of me. I am 34 years old. My father was an herb doctor, and left me all his receipts. For piles I use white oak bark tea, apply locally to bleeding piles and give licorice powders to keep the bowels open.

For tetter I use oil of Cade 1 oz., and lard 1 oz. This is a sure cure. I speak Spanish, and have had good luck on these trips before, but with a diploma I could get more to do. I cure rheumatism with oil of wintergreen rubbed on the joints. It is a sure cure. I could get rich next year curing malaria for the natives with your anti-bilious pills. I like your book and like your kind of medicine.

I can follow your directions in your book and will use your treatment. I leave here on Monday the 15th. Please send diploma C.O.D. \$25 by express.

Make it to A. H. Weiss of Granada, Nicaragua,

Oblige yours,

A. H. Weiss, Harrington, Del.

P. S. I have no use for the poisons in medicine. We have a Justice of the Peace, but he would get on to me, and I do not want it known that I bought a diploma.

That in reply to said next letter said Armstrong, on behalf of said Independent Medical College, wrote and mailed to the said Weiss, the following letter:

Chicago, Ill. Nov. 10, 1897.

A. H. Weiss, Esq., Harrington, Del.

Dear Doctor:- We have sent you diploma, C.O.D. \$25.00, to Harrington, Del. We have marked "subject to examination," but you need not examine it before the agent unless you wish to if you do not wish the agent to know what it is. Your letter directed us to send it to Granada, Nicaragua, but the expressman could not tell where the place was, so we thought it better to send it direct to you to Harrington, as it ought to reach you before the 15th.

Trusting everything will be satisfactory, we remain,

Very truly yours,

J. Armstrong.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

In that case the medical diploma was issued within ten days from the date when the first letter was written. Neiss then was and for more than two years prior thereto had been a hostler, and had never been a student of medicine either in the said Independent Medical College or elsewhere. That on the 10th day of November, 1897, the said Independent Medical College, as stated in said letter of the said J. Armstrong, forwarded to said Neiss by express a medical diploma C. O. D. for \$25, in the usual form of medical diplomas, entitling said Neiss to practice medicine and surgery in all its branches.

That the said Independent Medical College was not, in truth and in fact, organized and established for the purpose stated in said instrument in writing presented to the said Secretary of State, and was not, in truth and in fact, conducted for the purpose of subserving the purposes in said instrument in writing stated, but resorted to the aforesaid method of conferring degrees as a means of profit to the incorporators thereof, and to other individuals attached to or connected with said supposed Independent Medical College, and that such conduct and management of the said Independent Medical College was designed to and in fact did issue medical diplomas to persons wholly incompetent to practice medicine. And that the said State of Illinois did not, in said certificate of organization, confer upon it the power and authority to engage in the kind of business which the said supposed corporation has conducted, and that the acts and doings of the said supposed corporation in the premises were a gross usurpation of power and an unauthorized exercise of privileges not conferred upon it as a corporation, and that such exercise of power was wholly without warrant or authority of law. That in truth and in fact the said Independent Medical College was a mere diploma mill designed wholly for the issuing of diplomas to practice medicine, for a consideration, to persons wholly unqualified for such practice. That degrees of Doctor of Medicine have been issued to incompetent, unqualified and illiterate persons who were ignorant of the rudiments of medicine, thus enabling such persons to claim and pretend that they were duly authorized medical practitioners and to impose upon the public as such, and have in that way brought reproach upon the state and upon other Illinois medical colleges of good standing, and caused them to be regarded with suspicion. That in truth and in fact the said Independent Medical College did not conduct a medical college or medical university, and that it engaged in the business of issuing diplomas for a consideration to incompetent persons, under the cloak of its corporate name, and that the power conferred upon it by the said certificate of organization did not authorize it or warrant it in issuing diplomas to individuals as doctors of medicine in manner and form as the said Independent Medical College has been doing or assuming to do. That the course pursued by the said Independent Medical College is a menace to the health of the people and to the communities in which its so called graduates may locate or practice.

That the said Independent Medical College has usurped and at the time of the alleged issuance of the alleged diploma to said relator and in the issuance thereof did usurp and unlawfully exercise the powers of a corporation for pecuniary profit and not as provided by Sections 29 and 30 of the general incorporation law of the state of Illinois, and that it, the said Independent Medical College, its directors, officers and agents have wilfully transcended and exceeded the powers conferred upon it by its certificate of organization.

FOURTH CAUSE OF DEFENSE.

That respondent is informed and believes and therefore states as a fact that the above named relator is not a graduate of any medical college and has at no time heretofore attended and taken a course of instruction in the science of the practice of medicine or surgery in any of its branches and is now entirely lacking in knowledge and information necessary to the practice of medicine.

FIFTH CAUSE OF DEFENSE.

That respondent denies each and every statement of fact contained in the alternative writ heretofore issued in this cause which is not expressly admitted in the foregoing answers.

Wherefore, Respondent asks judgment for costs and all other proper relief.

Harper S. Cunningham,

Attorney General of Oklahoma.

SUPREME COURT PROCEEDINGS IN VACATION.

Territory of Oklahoma,)
) ss.
 County of Washita.)

I, J. B. Beaver, now of Salem, County of Washita, being first duly sworn, state on my oath that I graduated from the Independent Medical College Peoples Inst. Chicago, Ill., in 1898, and that I am the identical person to whom a diploma of graduation was issued by the aforesaid college of medicine on the 22nd day of June, 1898, which diploma I now have in my possession.....
 (If lost or destroyed state place, time and how lost or destroyed)

that I was born on the 14th day of Jan. 1861, in the county of Forsyth, in the state of Georgia, and that I registered in the aforesaid college of medicine from the state of Ill., while attending its regular sessions; that I have been engaged in the practice of medicine for about 12 years, about one Mo. of which time has been in this Territory. I further state that I have no vicious habits and do not use intoxicants to excess, and there are no charges against me, of which I know, that would in any wise blemish the character of a good reputable physician. I want a certificate to enable me to engage in the legitimate practice of medicine in the Territory of Oklahoma. I am now registered in the state of Texas, having practiced medicine in the state of Texas, 8 years, during the years of 1890 to 1899. I expect to locate at Salem, O. T.

Dated at Salem, O.T., June 8th 1899.

(Seal)

J. B. Beaver.

Subscribed and sworn to before me, a Notary Public, in and for the County and Territory aforesaid.

F. B. Duke,

Notary Public.

My commission expires Jan. 15th, 1899.

We, the undersigned citizens of Cloud Chief, O.T. W. O. Dyer and H. N. Perry, County of Washita, have been personally acquainted with affiant J. B. Beaver, for about one Mo. and know him, as far as our observation has enabled us to judge, to be a honorable, sober man. We believe his statements made above are true, to the best of our knowledge.

W. O. Dyer.

Henry N. Perry.

Territory of Oklahoma,)
) ss.
 County of Washita.)

Subscribed and sworn to before me this 8th day of June, 1899.

(Seal)

F. B. Duke,

Notary Public.

My commission expires Jan. 15th, 1901.

(Applicant will be particular to record in this affidavit his name and the name of the college of graduation exactly as they occur on his diploma. All dates must appear herein correctly and in full. Never send diploma for registration unless called for. This affidavit must be used in all applications for registration. Diplomas issued during and after 1895, will not be recognized for registration unless they are from a school recognized by the Association of American Medical Colleges.)

Filed Aug. 21-99

Benj. F. Hegler, Clerk Sup. Ct.
 By M. E. Ketsch, Deputy.

S U P R E M E C O U R T, J U N E, 1899, T E R M.--A U G U S T 21, 11th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Twenty-first day of August, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened pursuant to adjournment of June 15th, this being the Eleventh Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorable Clinton F. Irwin, Associate Justice; Benj. F. Hegler, Clerk; Samuel L. Overstreet, U.S. Attorney; Canada H. Thompson, U.S. Marshal; John C. Orner, Court Crier.

Public Proclamation having been^{duly} made of the opening of the court, the following proceedings were had, to-wit:

#861,
 John W. Archer and
 Robert Crawford,
 Appellants,
 vs.
 The United States,
 Appellee.

Ordered by the Court that plaintiff in error be permitted to file type written briefs in this case.

Ordered that court now adjourn until 10 o'clock to-morrow morning.

183

S U P R E M E C O U R T, J U N E, 1899, T E R M.--A U G U S T 22, 12th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Twenty-second day of August, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session for the June, 1899 term of said court, pursuant to law, this being the Twelfth Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorable Clinton F. Irwin, Associate Justice; Benj. F. Hepler, Clerk; Samuel L. Overstreet, U. S. Attorney; Canada H. Thompson, U. S. Marshal; John C. Orner, Court Crier.

Public Proclamation having been duly made of the opening of the court, the following proceeding was had,
to-wit:

Ordered that Court adjourn until 10 o'clock to-morrow morning.

S U P R E M E C O U R T, J U N E, 1899, T E R M. - A U G U S T 23, 13th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Twenty-third day of August, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session pursuant to yesterday's adjournment, this being the Thirteenth Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorables Bayard T. Hainer and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Samuel L. Overstreet, U.S. Attorney; Canada H. Thompson, U. S. Marshal; John C. Orner, Court Crier.

Public Proclamation having been duly made of the opening of the court, the following proceedings were had, to-wit:

Admission of Charles Thomas Burnett to practice,

Comes now Lewis P. Mosier a member of the bar of this court, and moves the admission of Charles Thomas Burnett, to practice therein, and it appearing to the court that the applicant is a person of good moral character, and skilled in the law, the attorneys oath is now administered to him, and it is

Ordered by the court that Charles Thomas Burnett be, and he is hereby admitted to practice at the bar of the Supreme Court of the Territory, and all the inferior courts thereof.

Ordered that court now adjourn until 10 o'clock to-morrow morning.

S U P R E M E C O U R T, J U N E, 1899, T E R M.--A U G U S T 24, 14th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Twenty-fourth day of August, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session pursuant to yesterday's adjournment, this being the Fourteenth Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorables Jno. L. McAtee, Bayard T. Hainer and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Samuel L. Overstreet, U. S. Attorney; Canada H. Thompson, U. S. Marshal; John C. Orner, Court Crier.

Public Proclamation having been duly made of the opening of the court, the following proceedings were had to-wit:

#893,
J. B. Beaver, Relator,
vs.

L. Haines Buxton, Sup't
Territorial Board of
Health, O.T. Respondent.

Comes now counsel for plaintiff and asks leave to withdraw his demurrer to the answer herein, and leave is granted.

#419,
The Central Loan & Trust Company,
Appellant,
vs.

The Campbell Commission Company
Appellee.

Ordered by the Court that plaintiff in error file with this court the mandate of the Supreme Court of the United States, in this case.

#601,
George M. Outcalt,
Appellant,
vs.

William Collier,
Appellee.

And now this cause comes on for final decision by the Court, on the rehearing heretofore granted herein, and the court having considered said cause and being fully advised in the premises finds that the order of the court heretofore made in this cause should be reversed and set aside.

It is therefore ordered and adjudged by the court that the order heretofore made overruling the motion to vacate as to Outcalt, is reversed and set aside, and cause remanded to the District Court with directions to sustain the motion to set aside the judgment as to Outcalt, and grant a new trial.

Opinion by Burford, Chief Justice. All the Justices concurring.

S U P R E M E C O U R T, J U N E, 1899, T E R M. -- A U G U S T 24, 14th J U D I C I A L D A Y.

#760,
John Young,
Appellant,
vs.
The Territory,
Appellee.

And now this cause comes on for final decision by the Court upon the briefs and record therein, and the Court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court in this cause should be reversed.

It is therefore ordered and adjudged by the Court that the judgment of the District Court in this cause is reversed and cause remanded with directions to sustain the motion in arrest of judgment and grant a new trial.

Opinion by Burford, C.J. All the Justices concurring except McAtes, J., who tried the cause below, not sitting.

#548,
B. F. Smith,
Appellant,
vs.
W. W. Spencer
W. C. Spencer,
Appellees.

And now this cause comes on for final decision by the court upon the record and briefs submitted therein, and the court having considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Burford, C.J.

#703,
J. R. Cox,
Appellant,
vs.
Gille Hardware and
Iron Co., (a corporation)
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein, and the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be reversed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby reversed.

Opinion by Burford, C.J.

#717,
A. B. Moore,
Appellant,
vs.
S. A. Akins, Sheriff, and
J. L. Calvert, Intervenor and
substituted defendant,
Appellees.

And now this cause comes on for final decision by the court upon the record and briefs submitted therein, and the court having duly considered the same, and being fully advised in the premises finds that this cause should be reversed in part and judgment modified.

It is therefore ordered and adjudged by the court that this cause be and the same is hereby reversed in part and the judgment modified.

Opinion by Burford, C.J.

#718,

John Craggs and
H. E. Craggs,
Appellants,
vs.

Elijah Earls,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of the plaintiff in error.

Opinion by Burford, C.J.

#724,

The Consolidated Steel and Wire Co.,
and Wichita Plumbing and Pump Co.,
Appellants,
vs.

Burnham, Hanna Munger & Co.,
Appellee.

And now this cause comes on for final decision by the Court, upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be reversed.

It is therefore hereby ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby reversed at the cost of defendant in error.

Opinion by Burford, C.J.

#725,

W. T. Vowell,
Appellant,
vs.

Elizabeth Taylor, and
George Taylor,
Appellees.

And now this cause comes on for final decision by the Court, upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be reversed.

It is therefore hereby ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby reversed at the cost of defendants in error.

Opinion by Burford, C.J.

#583,

Frank Keith,
Appellant,
vs.

The United States,
Appellee.

And now this cause comes on for decision by the court upon the record and briefs submitted therein, and the Court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court herein should be sustained at the cost of the plaintiff in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court herein be, and the same is hereby sustained at the cost of plaintiff in error.

Opinion by McAtee, J.

S U P R E M E C O U R T, J U N E, 1899, T E R M.--A U G U S T 24, 14th J U D I C I A L D A Y.

#838,
J. W. Divine and
Emil Barwig,
Appellants,
vs.
Mary J. Silvers,
Appellee.

And now this cause comes on for decision by the court upon the record and briefs submitted therein, and the court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court herein should be sustained at the cost of the plaintiffs in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court herein be, and the same is hereby sustained at the cost of plaintiffs in error.

Opinion by McAtee, J.

#847,
James A. Ferguson,
Appellant,
vs.
A. J. Blackwell and
Rosa Blackwell,
Appellees.

And now this cause comes on for decision by the court upon the record and briefs submitted therein, and the court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court herein should be sustained at the cost of the plaintiff in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court herein be, and the same is hereby sustained at the cost of plaintiff in error.

Opinion by McAtee, J.

#853,
Richard H. Wade,
Appellant,
vs.
Edward F. Gould,
Appellee.

And now this cause comes on for decision by the court upon the record and briefs submitted therein, and the court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court herein should be sustained at the cost of the plaintiff in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court herein be, and the same is hereby sustained at the cost of plaintiff in error.

Opinion by McAtee, J.

#875,
Frank E. Garton and
Lizzie D. Garton,
Appellants,
vs.

Hudson Kimberly Publishing
Company,
Appellee.

And now this cause comes on for decision by the court upon the record and briefs submitted therein, and the court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court herein should be sustained at the cost of plaintiffs in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court herein be, and the same is hereby sustained at the cost of plaintiffs in error.

Opinion by McAtee, J.

SUPREME COURT, JUNE, 1899, TERM.--AUGUST 24, 14th JUDICIAL DAY.

#796,
N. B. Easton,
Appellant,
vs.
Henry Broadwell,
Appellee.

And now this cause comes on for final decision by the Court, upon the record and briefs submitted therein, and the Court having duly examined the same, and being fully advised in the premises finds that the appeal herein should be dismissed.

It is therefore ordered and adjudged by the Court that the appeal herein be, and the same is hereby dismissed at the cost of plaintiff in error.

Opinion^o by McAtee, J.

#688,
Carl Crawford,
Appellant,
vs.

The Board of County Commissioners
of Noble County,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be, and the same is hereby affirmed at the cost of the plaintiff in error.

Opinion by Hainer, J.

#802,
Levi Belerstein,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of the plaintiff in error.

Opinion by Hainer, J.

#665,
D. F. Huddleston,
Appellant,
vs.

Noble County,
Appellee.

And now this cause comes on for decision by the court upon the record and briefs submitted therein, and the Court having duly considered the same and being fully advised in the premises finds that this cause should be reversed and remanded at the cost of defendant in error.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause should be reversed and cause remanded at the cost of defendant in error.

Opinion by Hainer, J.

SUPREME COURT, JUNE, 1909, TERM.--AUGUST 24, 14th JUDICIAL DAY.

#816,
W. H. Sullivan,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for decision by the Court upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that this cause should be reversed and remanded at the cost of defendant in error.

It is therefore ordered and adjudged by the Court that the judgment of the district court in this cause is reversed, and cause remanded at cost of defendant in error.
Opinion by Hainer, J.

#842,
Perry B. Lincoln,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for decision by the Court upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that this cause should be reversed and remanded at the cost of defendant in error.

It is therefore ordered and adjudged by the Court that the judgment of the district court in this cause is reversed, and cause remanded at cost of defendant in error.
Opinion by Irwin, J.

#859,
George H. Johnson,
Appellant,
vs.

The J. J. Douglas Company,
Appellee.

And now this cause comes on for decision by the Court upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that this cause should be reversed and remanded at the cost of defendant in error.

It is therefore ordered and adjudged by the Court that the judgment of the district court in this cause is reversed, and cause remanded at cost of defendant in error.
Opinion by Irwin, J.

#742,
D. R. Fant,
Appellant,
vs.

J. Y. Campbell and
J. M. Stovall,
Appellees.

And now this cause comes on for decision by the Court upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that this cause should be reversed and remanded at the cost of defendants in error.

It is therefore ordered and adjudged by the Court that the judgment of the district court in this cause is reversed, and cause remanded at cost of defendants in error.

Opinion by Irwin, J.

S U P R E M E C O U R T, J U N E, 1899, T E R M. -- A U G U S T 24, 14th J U D I C I A L D A Y.

#858,
Francis D. Malignon,
Appellant,
vs.
The Territory of Oklahoma,
Appellee.

And now this cause comes on for final decision by the court upon the record and briefs submitted therein, and the court having considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Irwin, J.

#751,
Mary C. Hardwick and
W. P. Hardwick,
Appellants,
vs.
C. T. Atkinson,
Appellee.

And now this cause comes on for final decision by the court upon the record and briefs submitted therein, and the court having considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Irwin, J.

#809,
Fuller & Fuller Company,
(a corporation)
Appellant,
vs.
George P. Johnston,
Appellee.

And now this cause comes on for final decision by the court upon the record and briefs submitted therein, and the court having considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Irwin, J.

#833,
Clark Watts,
Appellant,
vs.
First National Bank of El Reno,
Appellee.

And now this cause comes on for final decision by the court upon the record and briefs submitted therein, and the court having considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Irwin, J.

S U P R E M E C O U R T, J U N E, 1899, T E R M.--A U G U S T 24, 14th J U D I C I A L D A Y.

#320,

Brittain Smith & Company,
Appellants,
vs.

Burnham, Hanna, Manger & Co.,
Appellees.

Comes now Samuel L. Overstreet, attorney for defendants in error, and asks that this cause be re-docketed, and the same is done.

Ordered that court now adjourn until 10 o'clock to-morrow morning.

S U P R E M E C O U R T, J U N E, 1899, T E R M. -- A U G U S T 25, 15th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA,

BE IT REMEMBERED, That on this the Twenty-fifth day of August, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session pursuant to yesterday's adjournment, this being the Fifteenth Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorables Jno. L. McAtee, Bayard T. Hainer and Clinton F. Irwin, Associate Justices; Benj. F. Hagler, Clerk; Samuel L. Overstreet, U. S. Attorney; Canada H. Thompson, U. S. Marshal; John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court, the following proceedings were had to-wit:

In re
Admission of W. R. Wheeler to practice,

Comes now John W. Shartel and moves the admission of W. R. Wheeler, and it appearing to the Court that applicant is a person of good moral character and skilled in the law, the attorneys oath is administered to him, and it is now

Ordered by the court that W. R. Wheeler be and he is hereby admitted to practice in the Supreme Court of the territory and all the inferior courts thereof.

The Central Loan and Trust Company,	
Plaintiff in error,	
against	No.
The Campbell Commission Company,	
Defendant in error.	

Now on this twenty-fifth day of August, 1899, is presented to this Court the mandate of the Supreme Court of the United States, of the following substance and tenor, to-wit:

"UNITED STATES OF AMERICA, SS:

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judges of the Supreme Court of the Territory of Oklahoma, GREETING:

"WHEREAS, lately in the Supreme Court of the Territory of Oklahoma, before you, or some of you, in a cause between The Central Loan & Trust Company, plaintiff in error, and The Campbell Commission Company, defendant in error, wherein the judgment of the said Supreme Court, entered in said cause on the 12th day of February, A. D., 1897, is in the following words, namely:

"And now, to-wit, on this the 12th day of February, A.D., 1897, the above cause having come on for decision, and the court being fully advised in the premises, it is therefore considered, ordered and adjudged that the judgment of the court below be, and the same is hereby affirmed with costs to above appellant."

"Opinion by Tarsney, J., the other Judges concurring, except Bierer, J., who tried the case below, and Keaton, J., who was of counsel, not sitting, as by the inspection of the transcript of the record of the said Supreme Court, which was brought into the Supreme Court of the United States by virtue of a writ of error and an appeal, agreeably to the act of Congress, in such case made and provided, fully and at large appears.

"AND WHEREAS, in the present term of October, in the year of our Lord one thousand eight hundred and ninety-eight, the said cause came on to be heard before the said Supreme Court, on the said transcript of record, and was argued by counsel.

"ON CONSIDERATION WHEREOF, it is now here ordered and adjudged by this court that the judgment of the said Supreme Court in this cause be, and the same is hereby, reversed with costs; and that the said plaintiff in error, The Central Loan & Trust Company, recover against the said defendant in error, Two hundred and nineteen dollars and ninety-five cents, for its costs herein expended and have execution therefor.

S U P R E M E C O U R T, J U N E, 1899, T E R M. -- A U G U S T 25, 16th J U D I C I A L D A Y.

"And it is further ordered that the cause be, and the same is hereby, remanded to the said Supreme Court for further proceedings to be had therein in conformity with the opinion of this Court.

"February 20, 1899.

"You, therefore, are hereby commanded that such execution and further proceedings be had in said cause, in conformity with the opinion and judgment of this Court, as according to right and justice, and the laws of the United States, ought to be had, the said writ of error and appeal notwithstanding.

"WITNESS the Honorable MELVILLE W. FULLER, Chief Justice of the United States, the 7th day of August, in the year of our Lord one thousand eight hundred and ninety-nine.

Costs of Plff. in error
Clerk.....\$98.45
Printing record.....101.50
Attorney.....20.00
\$219.95

(Signed) JAMES H. MCKENNEY,

And upon the exhibition of said mandate, and the Court being duly advised in the premises, and in obedience to said mandate, it is by the Court considered, ordered and adjudged that the judgment rendered in this cause on the 12th day of February, A.D., 1897, affirming the judgment of the District Court of Noble County, be and the same is hereby set aside and reversed, and the judgment of the Court below rendered in the above entitled cause on the 16 day of December, 1896, dismissing the cause in the court below upon a certain plea interposed by the defendant to the jurisdiction of said court, be and the same is hereby reversed and the said cause is remanded to the court below for further proceedings in conformity with the opinion of the Supreme Court of the United States reversing the judgment of this court.

It is further considered, ordered and adjudged, that the plaintiff in error have and recover of and from the defendant in error the costs on his petition in error herein expended, taxed at the sum of _____ dollars.

Hereof let execution issue.

Jno. H. Burford,

Chief Justice.

ORDER FOR SPECIAL TERM FOR LINCOLN COUNTY.

Ordered by the Court:

That a special term of the District Court be and is hereby fixed for the County of Lincoln, and Territory of Oklahoma, at Chandler, in said County, for Tuesday, September 19, 1899.

It is further ordered by the Court: That on account of the necessary absence of the Hon. Jno. H. Burford, the presiding Judge of said court, the Hon. Clinton F. Irwin, Associate Justice of the Supreme Court of said Territory, and presiding Judge of the Second Judicial District thereof, be and he is hereby assigned to preside at said special term for said Lincoln County; and to hear and determine all matters that may properly come before said court, or before said Judge in Chambers, during the absence of the Hon. Jno. H. Burford.

It is further ordered by the Court: That any and all orders heretofore made in conflict with this order, are hereby vacated and set aside.

It is further ordered by the Court: That the Clerk transmit certified copies of this order to each of the District Courts of the Territory, and to the United States Attorney and United States Marshal.

Jno. H. Burford,

Chief Justice.

(Seal)

Attest:

Benj. F. Hegler, Clerk Supreme Court.

S U P R E M E C O U R T, J U N E, 1899, T E R M.--A U G U S T 25, 15th J U D I C I A L D A Y.

ORDER FIXING TERMS IN SECOND AND FIFTH DISTRICTS.

For Second District:-

Ordered by the Court: That the term of court heretofore fixed for the County of Roger Mills, at Cheyenne, in said Territory, for September 19, be changed and fixed for Monday, September 25, 1899; and the term of court heretofore fixed for the County of Custer, at Arapahoe, in said Territory, for October 3, be changed and fixed for Friday, October 6, 1899. And that the order for terms in said counties for September 19, and October 3, 1899, respectively, be and the same is hereby revoked.

For Fifth District:

It is further ordered by the Court: That a term of the District Court for the County of Garfield, at Enid, and Territory of Oklahoma, be fixed for Monday next, August 28, 1899, and that the order heretofore made for a term of said Garfield County District Court, beginning October 27, 1899, be and the same is hereby revoked.

It is further ordered by the Court: That all causes at issue and standing for trial and disposed of, at the terms heretofore fixed, shall stand for trial and determination at the terms provided for by this order. And all orders, writs and summonses of every character made returnable to the next terms of court, shall be returnable and stand for determination at the terms provided for in this order. And all persons under bond or recognizance to appear at any term of court as heretofore fixed, shall be required to appear on the first day of the term of court as fixed in this order, in the county in which they were required to appear by such bond or recognizance.

It is further ordered by the Court: That any and all orders heretofore made in conflict with this order, are hereby vacated and set aside.

It is further ordered by the Court: That the Clerk transmit certified copies of this order to each of the District Courts of the Territory, and to the United States Attorney and United States Marshal.

Jno. H. Burford,
Chief Justice.

(Seal)

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

#354,

Clark & Courts,
Appellants,
vs.
Greer County,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be, and the same is hereby affirmed at the cost of the plaintiffs in error.

Opinion by Burford, C.J.

S U P R E M E C O U R T, J U N E, 1899. T E R M,--A U G U S T 25, 1900 J U D I C I A L D A Y.

#835,
Geo. D. Barnard & Co.
Appellants,
vs.
Greer County,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be, and the same is hereby affirmed at the cost of the plaintiffs in error.

Opinion by Burford, C.J.

#832,
Fred Huster,
Appellant,
vs.
J. W. Wynn,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be, and the same is hereby affirmed at the cost of the plaintiff in error.

Opinion by Burford, C.J.

#828,
M. Friedman,
Appellant,
vs.
Maurice Weisz,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be, and the same is hereby affirmed at the cost of the plaintiff in error.

Opinion by Burford, C.J.

#740,
John B. Glover,
Appellant,
vs.
Benj. F. Swartz,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be, and the same is hereby affirmed at the cost of the plaintiff in error.

Opinion by Burford, C.J.

SUPREME COURT, JUNE, 1899, TERM.--AUGUST 25, 15th JUDICIAL DAY.

#814,

El Bridges,
Appellant,
vs.

D. R. Thomas,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be, and the same is hereby affirmed at the cost of the plaintiff in error.

Opinion by Burford, C.J.

#73.,

J. R. Scott, Duvall Jackson,
Robert Sutherland, F. P. Reese,
C. L. Cappy, and C. F. Winton,
Appellants,

vs.

J. W. Meyers,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be, and the same is hereby affirmed at the cost of the Plaintiffs in error.

Opinion by Burford, C.J.

#674,

The Atchison, Topeka &
Santa Fe Railway Co.
Appellant,

vs.

J. M. Haynes as Co. Treas.
of Kay county, O.T., and
Board of County Commissioners
of Kay County,
Appellees.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be, and the same is hereby affirmed at the cost of the plaintiff in error.

Opinion by Burford, C.J.

#844,

John Wallum,
Appellant,
vs.

The Territory,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein, and the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be reversed and a new trial ordered.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby reversed and a new trial ordered.

Opinion by Burford, C.J.

#821,

McCormick Harvesting Machine Co.,
Appellant,
vs.

William H. Koch and T. J. Koch,
Appellees.

And now this cause comes on for final decision by the Court, upon the record and briefs submitted therein, and the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be reversed and cause remanded with directions.

It is therefore ordered and adjudged by the Court that the judgment in this cause be, and the same is hereby reversed, and the cause remanded to the lower court with directions thereto to overrule the motion for judgment on the pleadings, and sustain the demurrer to the amended answer, and for further proceedings, and that plaintiff have judgment in this case for costs.

Opinion by Burford, C.J.

#810,

J. M. Goodrich,
Appellant,
vs.
The Oklahoma National
Bank of Oklahoma City,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs and oral argument therein, and the court having duly considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be reversed, and that the intervention of the Oklahoma National Bank should be dismissed, and judgment entered for the amount of principal and interest found to be due on the note sued upon at this time.

It is therefore ordered and adjudged by the Court that the order of the lower court discharging Williamson be reversed at the cost of defendant in error, and that the intervention of the Oklahoma National Bank be dismissed, and judgment entered for the amount of principal and interest found to be due upon the note sued upon at this time.

Opinion by McAttee, J.

#871,

George Boston,
Appellant,
vs.

G. D. Hewett and R. M. Dugger,
partners as Hewett & Dugger,
Appellees.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein, and the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be, and the same is hereby affirmed at the cost of the plaintiff in error.

Opinion by McAttee, J.

S U P R E M E C O U R T, J U N E, 1890, T E R M. -- A U G U S T 25, 15th J U D I C I A L D A Y.

#741,

Jonas H. Cook, Jonas M. Berry, Gdn.
Infant children of F. R. McKennon,
T. F. McKennon, Adm'r estate F. R.
McKennon, and S. L. Overstreet, Gd'n
ad litem,

Appellants,

vs.

Emma D. McCord, Nelson F. Chealle,
A. G. Wescott, and S. L. Overstreet,
Rec'r.

Appellees.

And now this cause comes on for decision by the court upon the record and briefs submitted therein, and the Court having duly considered the same and being fully advised in the premises finds that this cause should be reversed and remanded at the cost of defendants in error.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause should be reversed and cause remanded at the cost of defendants in error.

Opinion by McAtee, J.

#704,

C. W. Noyes, M. S. Norman, J. M. Kemper
and M. G. Davis, partners, doing
business as Noyes, Norman & Co.,
Appellants,

vs.

Kate Tootle, W. W. Wheeler, Joshua Motter,
and Frances S. Dameron, partners, as
Tootle Wheeler & Motter, and P. I. Brown,
and McFadyen & Stern, Lauer Shohl & Co.
Appellees.

And now this cause comes on for decision by the Court upon the motion to dismiss, and the court having duly considered said motion and being fully advised in the premises finds that the motion should be sustained, and the cause dismissed at the cost of plaintiffs in error.

It is therefore ordered and adjudged by the court that this cause be, and the same is hereby dismissed at the cost of plaintiffs in error.

Opinion by McAtee, J.

#783,

Board of County Commissioners
of Roger Mills County, O.T.
Appellant,

vs.

The Hall Lithographing Company,
Appellee.

And now this cause comes on for final decision by the court upon the record and briefs submitted therein, and the court having considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Hainer, J.

SUPREME COURT, JUNE, 1899. TERM--AUGUST 25. 15th JUDICIAL DAY

#780,

The Board of County Commissioners
of Roger Mills County, O.T.

Appellant,

vs.

Sat Rowden,

Appellee.

And now this cause comes on for final decision by the court upon the record and briefs submitted therein, and the Court having considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Hainer, J.

#790,

The Board of County Commissioners
of Roger Mills County, O.T.

Appellant,

vs.

N. & W. Sauer,

Appellees.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein, and the Court having considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Hainer, J.

#872,

Board of County Commissioners
of Woods County, O.T.

Appellant,

vs.

W. E. Oxley,

Appellee.

And now this cause comes on for final decision by the court upon the record and briefs submitted therein, and the Court having considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Hainer, J.

#643,

The Town of Norman,

Appellant,

vs.

H. J. Ince,

Appellee.

And now this cause comes on for final decision by the court upon the record and briefs submitted therein, and the court having considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Hainer, J.

SUPREME COURT, JUNE, 1899, TERM--AUGUST 25, 15th JUDICIAL DAY.

#829,
David S. Huber,
Appellant,
vs.

J. A. and C. C. Zimmerman,
Appellees.

And now this cause comes on for decision by the court upon the record and briefs submitted therein, and the Court having duly considered the same and being fully advised in the premises finds that this cause should be reversed and remanded at the cost of defendants in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause should be reversed and cause remanded at the cost of defendants in error.

Opinion by Hainer, J.

#850,
Benj. F. Kirtley,
Appellant,
vs.

May Dykes,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein, and the Court having duly considered the same and being fully advised in the premises finds that this case should be affirmed in part and reversed in part.

It is therefore ordered and adjudged by the Court that this cause be affirmed in part and reversed in part.

Ordered that Court now adjourn until 10 o'clock to-morrow morning.

SUPREME COURT, JUNE, 1899, TERM.--AUGUST 26, 19th JUDICIAL DAY.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Twenty-sixth day of August, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session pursuant to yesterday's adjournment, this being the Sixteenth Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorable Jno. L. McAtee, Bayard T. Hainer and Clinton F. Irwin, Associate Justices; Benj. F. Hagler, Clerk; Samuel L. Overstreet, U.S. Attorney; Canada H. Thompson, U.S. Marshal; John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court, the following proceedings were had to-wit:

In re,

Admission of Henry Hudson, Thomas E. Swanson, Sherman Buxton and D. T. Jarvis, to the bar,

Comes now Joseph Wisby a member of the bar of the Supreme Court, and moves the admission of Henry Hudson, Thomas E. Swanson, Sherman Buxton and D. T. Jarvis, to practice thereat.

And it appearing to the Court that said applicants are persons of good moral character, and skilled in the law, the attorney's oath is administered to them, and it is now by the Court

Ordered that Henry Hudson, Thomas E. Swanson, Sherman Buxton and D. T. Jarvis be and they are hereby admitted to practice at the bar of the Supreme Court of the Territory and all the inferior courts thereof.

#693,

Henry C. Ellis,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now appellant's application for dismissal of his appeal in this cause comes on for consideration by the Court;

And the Court having examined said application and fully considered the same, and being fully advised in the premises, finds that the application should be granted.

It is now therefore ordered and adjudged by the Court that the appeal herein be dismissed at cost of appellant.

#828,

School District No. 5, Oklahoma County, O.T.
Fred Ellis, Peter F. Griner, and John F. H. Hardy,
Appellants,
vs.

School District No. 83, Oklahoma County, O.T.
J. M. Thornburgh, A. S. Reed, and C. S. Eyer,
Appellees.

And now this cause comes on for consideration by the Court upon the motion of plaintiffs to dismiss the appeal herein, and the Court finds that the same should be dismissed.

It is therefore ordered and adjudged by the Court that the appeal in this cause be, and the same is hereby dismissed at the cost of plaintiffs in error.

#626,

The Grand Lodge of the Ancient Order
of Workmen of Oklahoma,
Appellant,

vs.

Oleva Furman,
Appellee.

And now the Court overrules the motion to re-tax costs herein, the same not having been filed in time.

S U P R E M E C O U R T, J U N E, 1899, T E R M. -- A U G U S T 26, 19th J U D I C I A L D A Y.

#466,
J. R. Wallace, et al,
Appellants,
vs.
H. B. Bullen, et al,
Appellees.

And now this cause comes on for decision by the Court upon the motion to retax the costs herein, and the Court having duly considered the same, and being fully advised in the premises finds that said motion should be sustained so far as it applies to the costs of copies of opinions in said cause in the sum of \$42.80; and that the balance of costs in this case, to-wit: the sum of _____ is a proper and legal charge against said plaintiffs in error.

#866,
J. B. Monroe and Ralph Waldo,
partners as Monroe Fruit Company,
Appellants,
vs.
T. C. Bottom & Co.,
Appellees.

Ordered by the Court that the motion to dismiss the appeal herein be sustained for the reason that said appeal was not taken within one year from the rendition of judgment in the lower court.

#722,
Calvin Lawson,
Appellant,
vs.
The Territory of Oklahoma,
Appellee.

Ordered by the Court that the motion to tax costs of case made herein be and the same is hereby denied; said application not having been filed in time.

#762,
James Hughes,
Appellant,
vs.
The Territory of Oklahoma,
Appellee.

Ordered by the Court that the motion to tax costs of case made herein be and the same is hereby denied; said application not having been filed in time.

#763,
Fred Horn,
Appellant,
vs.
The Territory of Oklahoma,
Appellee.

Ordered by the Court that the motion to tax costs of case made herein be and the same is hereby denied; said application not having been filed in time.

#893,
C. H. Core,
Appellant,
vs.

T. S. Smith, J. A. Fargarson,
Frank Mittaseh, John J. Donahoe,
S. P. Atherton, W. E. Rice,
Al Norris and T. L. Kelso,
Appellees.

Ordered by the Court that the appeal herein be now dismissed for the reason that it was not taken within one year from rendition of the judgment in the lower court.

SUPREME COURT, JUNE 3, 1929, T H A W. -- AUGUST 23, 15th JUDICIAL DAY.

#856,

Rosa Blackwell and
M. J. Blackwell,
Appellants,
vs.

M. J. Holt,
Appellee.

Ordered by the Court that this cause be and the same is hereby dismissed for the reason that no briefs are on file therein.

ORDER CHANGING TIME OF PAWNEE COUNTY TERM.

It is hereby ordered by the Court: That the Fall term of the District Court of Pawnee County, at Pawnee, heretofore fixed for November 6, 1929, is and is hereby changed to November 8, 1929. And all orders, summonses, pleadings, recognizances, undertakings and writs, returnable or due on said November 6, shall be due and returnable on said November 8, 1929.

It is further ordered by the Court: That any and all orders heretofore made herein, and in conflict herewith, be and the same are hereby revoked.

It is further ordered, that the Clerk transmit certified copies of this order to each of the District Courts of the Territory, and to the U. S. Attorney and U. S. Marshal.

Jno. H. Burford,
Chief Justice.

(Seal)

Attest:

Bert. F. Hegler,
Clerk Supreme Court.

ORDER CHANGING DATE OF TERM IN PAYNE COUNTY.

Ordered by the Court: That the date of the beginning of the September term, 1929, of the District Court in the County of Payne, at Stillwater, be and the same is hereby changed from the Fourth Monday of September, 1929, to the First Monday in October, 1929; and that a term of court be held in said county, beginning on the first Monday in October, 1929. And all orders, summonses, pleadings, recognizances, undertakings and writs, returnable or due on said Fourth Monday of September, 1929, shall be due and returnable on the First Monday in October, 1929.

It is further ordered by the Court: That the Clerk transmit certified copies of this order to each of the District Courts of the Territory, and to the United States Attorney and United States Marshal.

Jno. H. Burford,
Chief Justice.

(Seal)

Attest:

B. F. Hegler,
Clerk Supreme Court.

SUPREME COURT, JUNE, 1899, TERM--AUGUST 26, 19th JUDICIAL DAY.

#326,
Fire Extinguisher Manufacturing
Company (a corporation)
Appellant;

vs.

The City of Perry,
Appellee.

And now this cause comes on for final determination by the Court upon the record, briefs and arguments submitted therein.

And the Court having duly considered said cause and being fully advised in the premises finds that the same should be affirmed at the cost of plaintiff in error.

It is therefore now ordered and adjudged by the Court that this cause be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Burford, C.J. All the Justices concur, except Hainer, J., who presided below.

#343,
Morris Brown,
Appellant,

vs.

Laura Donnelly,
Appellee.

And now this cause comes on for final determination by the Court upon the record, briefs and arguments submitted therein.

And the Court having duly considered said cause and being fully advised in the premises finds that the same should be affirmed at the cost of plaintiff in error.

It is therefore now ordered and adjudged by the Court that this cause be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Burford, C.J. All of the Justices concur except Hainer, J., not sitting, and McAtee, J., who dissents, upon the views expressed in the dissenting opinion of Barnes vs. Newton, 5 Okla. p. 137.

#367,
Allen I. Acers,
Appellant,

vs.

Warren K. Snyder,
Appellee.

And now this cause comes on for final determination by the Court upon the record, briefs and arguments submitted therein.

And the Court having duly considered said cause, and being fully advised in the premises finds that the same should be affirmed at the cost of plaintiff in error.

It is therefore now ordered and adjudged by the Court that this cause be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Burford, C. J. All the Justices concurring except Hainer, J., who tried the cause below.

#370,
W. F. Wyman,
Appellant,

vs.

Virgil Herard,
Appellee.

And now this cause comes on for final determination by the Court upon the record, briefs and oral argument therein.

And the Court having duly considered said cause, and being fully advised in the premises finds that the same should be modified and affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby modified and affirmed at the cost of plaintiff in error.

Opinion by McAtee, J. All the Justices concur.

SUPREME COURT, JUNE, 1899, TERM--AUGUST 26, 18th JUDICIAL DAY.

#350,

Benj. L. Kirtley,
Appellant,
vs.

May Dykes,
Appellee.

And now this cause comes on for further consideration and determination by the Court upon the record and briefs submitted therein, and upon the decision heretofore, to-wit, Aug., 25th 1899, rendered in this cause, and the Court finds that said former decision should be so modified as to affirm the entire judgment of the court below in this cause.

It is now therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed.

Opinion by Irwin, J. All the Justices concurring, except Justice Hainer, who having presided at the trial below, took no part in this decision.

ORDER ASSIGNING JUSTICE HAINER TO PRESIDE AT THE DISTRICT COURT OF LOGAN COUNTY.

It appearing to the Court, that the Hon. Jno. H. Burford, Chief Justice of the Supreme Court, and presiding Judge of the First Judicial, will be necessarily absent therefrom on judicial business and unable to hold court therein for a period beginning December 1, 1899, it is therefore

Ordered by the Court: That the Hon. Bayard T. Hainer, Associate Justice of the Supreme Court, and presiding Judge of the Fourth Judicial District, be and he is hereby assigned to preside at the November, 1899, term of District Court of the County of Logan, and Territory of Oklahoma, in the First Judicial District, beginning December 1, 1899, to try all causes pending therein, and hold the District Court of said county, during the absence of the regular presiding Judge thereof.

It is further ordered by the Court: That the clerk transmit a certified copy of this order to each of the clerks of the First and Fourth Districts.

(The above order belongs in proceedings of November 7th)

Jno. H. Burford,
Chief Justice.

ORDER OF TEMPORARY ASSIGNMENT OF ASSOCIATE JUSTICE HAINER TO FIRST DISTRICT.

Whereas, it has been made to appear to the Court, that the Hon. Jno. H. Burford, Presiding Judge of the First Judicial District, Territory of Oklahoma, will be absent from the Territory for a period of thirty days from and after the 31st day of August, 1899, and will therefore be unable to hold court in said District, or to hear matters in Chambers during said period, it is now hereby

Ordered, That the Hon. Bayard T. Hainer, Associate Justice of the Supreme Court and presiding Judge of the Fourth Judicial District, be and he is hereby designated and assigned to preside in said First District, make all orders, try all causes, and hear and determine all causes or matters in court or in Chambers, now pending or to be brought in said First District, during the absence of said Judge of said First District, as fully as the said Judge of said First District might do if personally present; except the term of District Court for the County of Lincoln, in said Territory, at Chandler, beginning September 19, 1899, to which the Hon. C. F. Irwin, Associate Justice of the Supreme Court and presiding Judge of the Second Judicial District, has been, by an order of this court heretofore made, assigned.

It is further ordered, That the Clerk transmit certified copies of this order to each of the District Courts of said First District, and to the Clerk of the Fourth District.

Attest:
Benj. F. Hegler, Clerk Supreme Court.
(Seal)

Jno. H. Burford,
Chief Justice.

Ordered that court now adjourn to November 6th, 1899.

SUPREME COURT PROCEEDINGS IN VACATION.

BEFORE THE CHIEF JUSTICE OF THE SUPREME COURT OF O. T.

MAY 1899.

George W. Allen, relator for himself and fifty three signers on a petition filed in the office of the county clerk of Grant county, O.T. on the 26 day of April, 1899, nominating and designating as "Centerville" the N. W. qr of section 30 of Twp. 27 R. 5 W. 1. M. as a location for the county seat of Grant county, O.T. to be voted for at a special election called by the Board of Court, Commissioners for May 16, 1899.

vs.

The Board of Election Commissioners of Grant County for said election consisting of Howard Reed, Thomas Kearse and H. B. Freeland.

Petition and affidavit of Relator.

Comes now George W. Allen, relator, and states as follows under oath for cause of action.

I am a citizen of Grant county, O.T. a resident and taxpayer. A special election is called in Grant county, O.T. by the Board of Co. Comm. thereof for May 16-1899, for the location, determination or relocation of the Co. seat, which fact is more fully set out in a Proclamation thereof hereto attached and made a part hereof, and marked exhibit "A". I am a signer of a petition designating the N. W. qr. of section 30 of Twp. 27, N. of R. 5 W. 1.M. in Grant county, O.T. and designated as Centerville, as a candidate for the location or relocation of the county seat of said county, at said election under the election laws of this Territory. A copy of said petition is hereto attached and marked exhibit "B" and made a part of this petition.

The petition was signed by 53 residents and legal voters of Grant county, O.T., is in regular form and was regularly filed in the legal time required for such a petition to be filed. That a right under said petition originated under it to the signers thereof, and to this relator, viz: to have the location designated Centerville placed on the official ballot for the special election herein before alluded to.

That a Board of Election Commissioners was appointed by the County Clerk of Grant County, O.T. composed by Thomas Kearse, Howard Reed and H. B. Freeland, citizens of said county on the 5th day of May, 1899, who acted in such capacity, and made a ticket for said election, and who in violation of their duty and of their oath of office refused and now still refuse to place the name of said location on the ballot. That unless this writ is granted, great wrong, damage, and a loss of civil rights will come upon the petitioners and to this relator.

Wherefore, the relator herein asks that a peremptory writ of mandamus issue against the said Board of election Commissioners and each of them commanding them and each of them to act in their official capacity and place the name of Centerville on the official ballot for the special election to be held in the county of Grant, in the Territory of Oklahoma on the 16 day of May, 1899.

The relator herein asks for judgment against the refusing members of said Board of Election Commissioners Thomas Kearse and Howard Reed, for the costs in this action and for the sum of \$50.00 for damages and expenses, and \$100.00 for attorneys fees for presenting the case and securing this writ.

George W. Allen.

The above petition and relation was subscribed and sworn to by Geo. W. Allen, before me this 6 day of May, 1899.

(Seal)

J. P. Renshaw, Clerk,

By J. H. Asher, Deputy.

N. B. Freeland, member of the County Board of Election Commissioners of Grant County, Okla. Ter., for avoidance of the writ of mandamus above asked for to issue against me as a member of said Board shows that he has not refused to place the name of Centerville on the official ballot as asked for by the signers of the petition therefor, but as a member of said Board voted for, and is willing to place said name on the official ballot.

SUPREME COURT PROCEEDINGS IN VACATION.

N. B. Freeland
Member of the Board of Election
Commissioners Grant Co. O.T.

Filed May 18, 1899,

Benj. F. Hegler,
Clerk Sup. Ct.

Endorsed as follows: #878, George W. Allen
and 53 others vs. Board of Election
Comrs of Grant Co. Petition for Writ
of Mandamus. Filed May 10/99 Benj. F.
Hegler, Clerk Sup. Ct.

Exhibit "A"

PROCLAMATION.

of the time and places of holding a special
COUNTY SEAT ELECTION.
in the County of Grant, Territory of Oklahoma.

Territory of Oklahoma,)
Grant County,) ss.

The Territory of Oklahoma, to All to Whom These Presents Shall Come, Greeting:

Know ye, that whereas, on the 5th day of April, A.D., 1899, the same being a day of the regular April session, 1899, of the Board of County Commissioners of Grant County, Territory of Oklahoma, such Board of County Commissioners made an order calling a Special Election, to be held in all the voting precincts within and for said county of Grant, on the 16th day of May, A.D., 1899, whereby to determine the change of the location of the county seat of said county of Grant, and submitting to the legal voters of said county of Grant, at said special election, the question of changing and relocating the county seat of said county of Grant, and designating voting places in the various precincts, at such election, which said order is in the following words and figures, to-wit:

"Whereas, upon this 5th day of April, A.D., 1899, and at the regular April, 1899, session of the Board of County Commissioners, within and for Grant County, Oklahoma Territory, a legal petition has been presented to the said Board of County Commissioners, asking and petitioning the said Board of County Commissioners to call a special election within and for the county of Grant and Territory of Oklahoma, whereby to determine the change of location of the county seat of said county of Grant, and further asking that the question of changing the location of the said county seat of said Grant County, be submitted to the legal voters of said Grant County, Oklahoma Territory, at a special election to be called for that purpose. The Board of County Commissioners, after due consideration and a careful examination of the said petition, or petitions, now on file in the office of the County Clerk of said Grant County finds that said petition is legal and is properly verified to according to law, and also contains the signatures of the required number of legal voters residing in said county of Grant, and whose names appear upon the tax rolls of said Grant County, as provided by law, and hereby grant the requests of said petition.

It is, therefore, considered and ordered by the Board of County Commissioners of Grant County, Oklahoma Territory, that a special election be held, and a special election is hereby called to be held, and will be held according to law, within and for said county of Grant, in Oklahoma Territory, on the 16th day of May, A.D., 1899, whereby to determine the change of location of the county seat of said Grant County, and that the proposition to locate, or relocate, and change the location of the county seat of said Grant County, Oklahoma Territory, be submitted to the legal voters of said Grant County, Oklahoma Territory, at said special election, called and held for that purpose on the 16th day of May, A.D., 1899, and the Board of County Commissioners of said county of Grant hereby designates as the voting places of the various precincts of the said county of Grant, as follows, to-wit:

SUPREME COURT PROCEEDINGS IN VACATION.

The places used as voting places at the general election of 1898, or wherever such place cannot be secured, the nearest convenient place which can be secured for such purposes.

(Seal)
(County) Attest:
(Clerk.) Howard D. Reed, County Clerk.

T. P. Neville, Chairman Board of
County Commissioners.

Now, therefore, by virtue of the authority vested in such Board of County Commissioners, and pursuant to said above recited order, public notice is hereby given by said Board of County Commissioners, that on Tuesday, the 16th day of May, A.D., 1899, there will be held a Special Election in and for said county of Grant, whereby to determine the change of location of the county seat of said county of Grant.

Said special election will be held at the time and for the purpose aforesaid, in all the various election precincts of said county of Grant, and at the places used as voting places, at the general election of 1898, or, whenever such places can not be secured, then, at the nearest convenient places which can be secured for such purposes.

Done at Pond Creek, Grant County, Oklahoma Territory, this the 17th day of April, 1899.

(Seal)
(County)
(Clerk.)

T. P. Neville,
Chairman Board of County
Commissioners.

H. M. Brewer,
Commissioner 2nd District.

Attest:
Howard D. Reed, County Clerk.

Below are the various places designated by the Board of County Commissioners to be used as the voting places in the general election 1898, in the various precincts of the County:

Bluff Township, at school house, in District No. 23.

Fairview Township, at school house, in District No. 21.

Hickory Township, at school house, in District No. 19.

Jarvis Township, at school house, in District No. 17.

Wakita Township, at school house, in District No. 15.

Manchester Township, (North) in Manchester.

Manchester Township, (South) at school house, Dist. No. 36.

Ware Township, at school house, in District No. 59.

Valley Township, at school house, in District No. 56.

Medford Township, residence of L. E. Haver, S.W. Section 21.

Medford Village, office of George W. Robson.

Dirigo Township, (West) 27-4 at school house, District No. 51.

Dirigo Township, (East) 27-3 Deer Creek Village.

Lamont Township, at Auditorium, in Lamont Village.

Rock Island Township, at school house, in District No. 79.

Coldwater Township, at school house, in District No. 100.

Prairie Township, at residence of J. E. Roy.

Berry Township, at school house, in District No. 103.

Salt Fork Township, at school house, in District No. 99.

Village of Jefferson, at Glahn's Hall.

Village of Renfrow, at Southwestern Lumber Co. Office.

Pond Creek City: 1st Ward, at Elliott Building; 2nd Ward, at Franke Building; 3rd Ward, at J. H. McKay's Hotel; 4th Ward, at

I hereby certify this is a true copy of the election proclamation posted in this county according to law on or before April 25th, 1899.

Filed May 10/99,
Benj. F. Hegler, Clerk Sup. Ct.

J. D. Butts, Sheriff,
By H. L. F. Roberson under sheriff.

SUPREME COURT PROCEEDINGS IN VACATION.

Exhibit B.

P E T I T I O N.

We, the undersigned, residents and legal voters residing in Grant county, Oklahoma Territory, desiring to vote for a location in the geographical center of Grant county, O.T. and designated as "Centerville" on the N.W. qr. of section 30 township 27 N. of range 5 W. I. M., petition for the above named location to be printed on the official ballots for the special election called for the 16 day of May, for the location of the county seat of Grant county, O.T.

In the year of 1899.

N A M E S.

P O S T O F F I C E.

H. I. Wasson,

Pond Creek, N.W. 3-26-6

Geo. W. Allen,

Jefferson, S.E. 32-26-5

D. L. Myers

Jefferson,

John Keller

Jefferson, S.W. 2-26-6

S. A. Cress

Hawley,

Matt Richards

N. 1/2 N.E. 1/4 14-26-6

M. E. Murray

Jefferson,

V. H. Roel

Jefferson, S.E. 2-26-6

H. C. Hook

Jefferson, "

W. D. Lory

Jefferson "

Geo. D. Walker

"

J. O. Berk

"

Wm. Shrider

Medford, "

R. H. Dillingham

Jefferson,

Frank Newhouse

Medford,

James Gruber

Medford,

W. H. Farmer

Pond Creek,

W. L. Ware

Pond Creek, S.W. 1-25-5

R. L. Reed

Pond Creek,

J. L. Hieck

Hawley,

J. M. Gussinger

Lamont,

J. E. Whittee

Hawley,

J. K. Cross

Lamont,

G. W. Liske

"

J. W. Newell

"

C. C. Wallace

"

H. H. Tripp

"

James Wherry

"

A. M. Dechtelheimer

10-25-8

Daniel Beckshannon

Hawley,

J. D. Lydick

Jefferson,

J. E. Lindley

Pond Creek,

C. E. Elson

" "

R. H. Beetham

" "

G. W. Campbell

Jefferson

J. A. Dilzer

35-26-6

Thos. P. Hayes

7-25-5

SUPREME COURT PROCEEDINGS IN VACATION.

NAME S.	POST OFFICE.
C. M. McCarter	8-26-7
W. M. Ledgerwood	8-26-7
L. E. Evans	10-25-6
D. B. Wagoner	10-25-7
Wm. French	26-25-6
P. H. Bunker	12-25-8
J. A. Lammon	Wakita,
Wm. Browning	20-25-6
J. W. Moody	3-25-4
Watt Richards	N.W. 14-26-6
J. W. Dennis	N.W. 24-25-6
E. Brazell	N.W. 14-25-4
W. T. Vest	N.W. 34-25-7
H. E. Fogle	N.W. 32-26-6
T. A. Horton	N.E. 27-25-7
Moses Shurkey	N.E. 28-25-7

Duplicate.

CERTIFICATE.

An original petition hereto attached and identified under oath by H. I. Wasson, is this 26 day of April, 1899 filed in the office of the County Clerk of Grant county, O.T. this at Pond Creek, O.T.

(Seal)

Howard D. Reed,
County Clerk.

I, H. I. Wasson being first duly sworn state that the attached petition is the original and genuine copy, and that the signers thereto are genuine, and that the signatures thereto are the deed of the parties known by the names set forth and that to the best of his knowledge and belief they are as they represented themselves to be residents and legal voters of Grant county, O.T.

Howard D. Reed.

Subscribed and sworn to by H. I. Wasson this 26 day of April, 1899.

(Seal)

Howard D. Reed,
County Clerk.

I, Howard D. Reed, County Clerk, in and for Grant County, Oklahoma Territory, do hereby certify that there has been this day filed in my office, a petition containing Fifty Three (53) names, asking that the town of Centerville, Grant Co. Oklahoma Territory be placed on the official ballot as a candidate for the County Seat contest, at the election called for May 16, 1899.

Witness my hand and official seal this the 26 day of April, A.D. 1899.

Seal.

Howard D. Reed,
County Clerk.

Office of Co. Clerk of Grant Co. O.T. Pond Creek, May 6, 1899,

I hereby certify that the within is a true copy of the nomination petition filed for "Centerville" in the office of the County Clerk of Grant Co. O.T. the 26 day of April, 1899, and rejected by the Board of Election Commissioners at their regular session in my office in Pond Creek, O.T. on the 5th day of May, 1899.

Howard D. Reed,

(Seal.)

County Clerk.

Endorsed as follows: Nomination petition of Centerville. Filed 26 day of April, 1899, Howard D. Reed, County Clerk. Wasson & Freeland, Attorneys, G. W. Allen, Election Com.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

I undertake to pay all costs in this action if adjudged against me,

G. W. Allen.

Endorsed as follows:

#465, Filed 5/6-1899, J. P. Renshaw, Clerk, By J. H. Asher, Deputy.

Pond Creek, Okla. May 6, 1899.

Notice is hereby served on the County Clerk as Clerk, and also as Chairman of the Board of Election Commissioners, that ^{I,} H. I. Wasson, attorney for the group of petitioners asking for the location of the N.W. 1/4 of sec 30, 27, 5, in Grant Co. O.T., designated as Centerville, be placed on the official ballot for the special election to be held on the 16th day of May, 1899, for the location of the County Seat of Grant Co. O.T. will apply to Hon. Jno. L. McAtee, Judge of the District Court of O.T., for a writ of mandamus, to compel the name of Centerville and aforesaid location to be placed on the official ballot for the election aforesaid. I will apply to Hon. J. L. McAtee at Enid, O.T. at 1 o'clock p.m. of May 6, 1899, or as soon thereafter as the Judge will hear the application.

H. I. Wasson, Attorney for himself and other petitioners for Centerville.

I hereby accept notice of within instrument this 6 day of May, A.D. 1899.

Howard D. Reed,
Co. Clerk and Chairman Election Com.

Certificate,

I Frank Worcester, hereby certify that I am deputy clerk of the district court for the county of Garfield, in the Territory of Oklahoma. I have charge of the office of clerk of the District Court of Garfield Co. in the Court House in the city of Enid, in said county.

I was in my office in the Court House in the city of Enid at 1 o'clock on the 6th day of May, 1899, and remained in my office all afternoon of said day.

H. I. Wasson, attorney for the plaintiff relator in a case to which I attach this certificate, wherein Geo. W. Allen is plaintiff and relator, and The Board of Election Commissioners of Grant Co. O.T. are defendants, Mr. H. I. Wasson appeared and remained during the afternoon in search of Judge McAtee, whom he did not find, and who is in the west part of the district. No person appeared for the Election Commissioners, neither did any member of said Board appear at the hour named in the notice in these pleadings, nor during the afternoon of said day, for any purpose whatever, and no answer was made or filed, nor other proceeding adverse to the petition.

Witness my hand and the seal of said Court this 6th day of April, 1899, at 6 o'clock p.m.

(Seal)

J. P. Renshaw, Clerk,
By Frank Worcester, Deputy.

SUPREME COURT PROCEEDINGS IN VACATION.

In the matter of the application)
of George W. Allen, et al., for)
Writ of Mandamus.)

OPINION OF THE JUDGE.

In this case George W. Allen and fifty-three others present their application for a writ of mandamus against the Board of Election Commissioners of Grant County, to compel them to place the name of "Centerville" on the official ballot to be voted for as a location for the County seat, at a special election to be held May 16th, 1899.

It appears from the application or petition that the Board of County Commissioners of Grant County has ordered a special election to be held in said County on the 16th of May, 1899, to determine the change of the location of the County seat of said County. That a board of election commissioners has been appointed for said election, and are proceeding to receive and pass on nominations of places to be voted for and prepare an official ballot to be voted at such election.

It further appears that on the 26th day of April, 1899, a petition was filed in the office of the County Clerk of said County, signed by fifty-three resident and legal voters of said County, designating the N.W. 1/4 of Sec. 30, Twp. 27, N. of Range 5, W. I.M. in Grant County, and naming such location "Centerville" as one of the places to be voted for, for the location of the County seat of said Grant County, and requested that Centerville be placed on the official ballot as a candidate to be voted for, for said County seat location.

It further appears that the board of election commissioners refused and still refuse to recognize said petition, or to give the said location so designated a place on said official ballot. The petitioners pray that an order issue from the Chief Justice of the Supreme Court of the Territory, commanding the Board of Election Commissioners to place Centerville on the official ballot as a place to be voted for at which to relocate said County seat. This is an ex parte hearing, without notice, and the writ should not issue unless the right is clear and unquestioned. The Supreme Court of Kansas in the case of Couley vs. Fleming, et al., 14 Kan., 381, said: "In the selection of a County seat the electors are not limited to existing cities and towns, but may choose a site for a new town, and locate the County seat thereon."

There may be some question as to whether a board of election commissioners are authorized to act in an election of this kind, but in any event, if acting, they cannot disregard any place petitioned for by the required number of electors. Their acts in this particular are not quasi judicial, nor are they required to exercise discretion. The act of placing the names on the ballot is ministerial. Of course, if a controversy should arise as to right of contesting candidates for the same place, no Court would attempt to control the decision of the election Commissioners, as to which was the rightful claimant. Their decision in such matters is conclusive. But lack of the action of the election commissioners, and back of the action of the Board of County Commissioners, in ordering the election to determine the re-location of the County seat, lies the question of the power of the legislature to authorize such proceedings. Is the removal of County seats, located within the boundaries of the original ^{Charleston} outlet, a rightful subject of legislation? If it is not, then the Act of the legislature providing for such election and removal is void.

The Act of Congress providing for the opening of original Oklahoma, contained no provision for counties or the location of County seats. Section 4 of the Organic Act established seven counties, and located the several County seats, but also contained this provision, "Provided, that the County seats located by this Act may be changed in such manner as the Territorial legislature shall provide."

Here was a clear expression of the Congressional purpose, only to deal temporarily with the location of these County seats, and giving express authority to the legislature to provide for changing them. The same Act, Sec. 6, contains this provision: "That the legislative power of the Territory shall extend to all right-

SUPREME COURT PROCEEDINGS IN VACATION.

all subjects of legislation not inconsistent with the Constitution and laws of the United States." In my judgment, unless some Federal Statute is controvened, the location or relocation of county seats is a rightful subject of legislation.

Congress has full power to legislate directly for the Territories, and whenever Congress legislates upon any subject directly, it ceases to be a rightful subject of Territorial legislation, and a law of the legislative assembly upon a subject which Congress has subjected to their own control, is in conflict with such law of the United States.

In the Act opening the Cherokee outlet to settlement, Congress made provision for the location of County seats, and assumed direct legislative control of this subject. Sec. 14, of this Act provides:

"Before any of the aforesaid lands are open to settlement it shall be the duty of the Secretary of the Interior to divide the same into Counties which shall contain as near as possible, not less than five hundred square miles in each County * * * * * That as soon as the County lines are designated by the Secretary, he shall reserve not to exceed one half section of land in each County to be located for County seat purposes, to be entered under Sections Twenty-three hundred and eighty-seven and twenty-three hundred and eighty-eight of the Revised Statutes, and all reservations for County seats shall be specified in any order or proclamation which the President shall make for the opening of the lands to settlement."

It will be observed that Congress omitted from this Act the provision authorizing the legislature to change these county seats. We must assume that Congress had reasons for this omission, and that it was the purpose of Congress to permanently locate these County seats, at least so long as we are a subordinate dependency of the Federal government. Territories are not possessed of sovereign powers derived from its inhabitants, and the inherent powers vested in the citizens of a State are lacking in the inhabitants of a Territory. A Territory derives all its governmental functions and powers from the general Government, and can only exercise such powers as are conferred.

Pursuant to the authority vested in him by the Act of Congress, the Secretary of the Interior established the lines of Grant County, and located the half section of land on which its County seat is located. The County accepted this grant, and the several departments of both the Federal and Territorial governments have recognized and ratified the acts of the Secretary.

When Congress provided for the location of the County seat of Grant County, without giving any authority to change it, the right of the legislature to authorize such change ceased. The Organic Act defining the powers of the legislative assembly, and the Act of Congress authorizing the location of the county seats in the Cherokee Strip must be construed together, the later act modifies the former, and the legislature can pass no law authorizing any change in the location of such County seats until permitted to do so by Congress. The Act of the Territorial legislature under which the special election for May 15th is attempted to be held is, in my judgment, as at present advised, in conflict with the Act of Congress authorizing the location of the County seat of Grant County, and is therefore void. To grant the writ of mandamus asked for would be a judicial recognition of the validity of the Act of the legislature, under which the Board of election commissioners are assuming to act. This I am unwilling to do, as it is an elementary principle that the extraordinary writ of mandamus will not issue unless the right to it is clear and undisputed. The application is denied.

Jno. H. Burford,
Chief Justice.

Done at Chambers at Stillwater, O.T.
this May 9, 1899.

Endorsed as follows:

4378, Original in S. Ct. In re George W. Allen, et al, vs. Board of Election Commissioners of Grant County. Opinion. Filed May 10, 1899, Lem. F. Leeler, Clerk Sup. Ct.

SUPREME COURT PROCEEDINGS IN VACATION.

George W. Allen, et al,)
 Plaintiffs in error,)
 vs.)
 The Board of Election Commissioners)
 of Grant County, O.T.)
 Defendant in error. (

Come now George W. Allen, et al, plaintiffs in the above entitled cause and except to the ruling and decree of the Court, and give notice that they will within 30 days file a motion to review the opinion of the Chief Justice of the Court before the full bench at the next regular term, at which time said review may be had after said motion may be properly filed.

H. I. Wasson,

Attorney for Relator.

Endorsed as follows:

#878, George W. Allen and 53 others, vs. The Board of Election Commissioners of Grant Co. Exceptions. Filed May 10/99, Benj. F. Hegler, Clerk Sup. Ct.

George W. Allen, et al,)
 Plaintiffs in error,)
 vs.)
 The Board of Election Commissioners)
 of Grant County, O.T.)
 Defendant in error. (

To the Attorney General of Oklahoma Territory:

You will take notice that there is now on file with the Clerk of the Supreme Court of the Territory of Oklahoma, an opinion and decree ex parte in the case in which George W. Allen, et al, are relators, and ask for a writ of mandamus against the Board of Election Commissioners of Grant County, acting for the special election called by the Board of County Commissioners thereof for the 15th day of May, 1899.

You are further notified that the plaintiffs will move for a review of said opinion and decree of the Chief Justice of the Supreme Court, at the next regular term of the Supreme Court, by the full bench. That plaintiffs will have their motion on file within 30 days from this date.

H. I. Wasson,
 Attorney for Relators.

Dated this 10th day of May, 1899,

Service accepted this 10th day of May, 1899, by copy of above.

Harper S. Cunningham.

Endorsed as follows:

#878, George W. Allen and 53 others, vs. Board of Election Commissioners of Grant Co. Notice to Attorney General. Filed May 10/99, Benj. F. Hegler, Clerk Sup. Ct.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

No. 878.

In the Supreme Court of Oklahoma Territory.

In re Geo. W. Allen,
Relator,
vs.

The Board of Election Commissioners
of Grant County, O.T.

Notice of application for oral argument in the above entitled cause.

To the members of the election commission of Grant county, O.T. for the special election called by
the Board of County Commissioners of Grant County, O.T. for May 16, 1899.

You are hereby notified that I will as Attorney for the relator in the above entitled cause make
application on the first day of the June term of the Supreme Court of Oklahoma Territory to argue the merits
of the issues involved in the above entitled cause orally and ask that a day certain be set by the court for
said argument.

H. I. Wasson,
Attorney for Relator.

Pond Creek, O.T. May 29, 1899.

The above notice with a copy of the printed petition for review and the opinion of the Hon. Chief
Justice to be reviewed was this day served on me as a member of the election commission of Grant county, O.T.
I hereby accept service of the notice in said above named cause now pending in the Supreme Court of Oklahoma
Territory.

H. F. Froslard,
Member of Election Commissioners
Board of Grant county, O.T.

On this notice and showing leave of court is asked for date for oral argument.

H. I. Wasson.

Endorsed as follows:

#878, George W. Allen, et al, vs. Board Elec. Com'rs. Notice of oral argument.

Filed June 5/99, Wm. F. Hegler, Clerk Sup. Ct.

In the Supreme Court of Oklahoma Territory.

George W. Allen, Relator,
Plaintiff in error,
vs.
The Board of Election Commissioners
of Grant Co. O.T.,
Defendants in error.

P E T I T I O N F O R R E V I E W .

George W. Allen, et al plaintiffs in error in the above entitled cause state as follows for errors
and irregularities in the opinion of the Chief Justice handed down at Chambers in the City of Stillwater,
on the 9th day of May, 1899.

F I R S T .

The Court erred in applying to the civil government of the Territory of Oklahoma an act of congress
which provides only for the disposal of the public lands of the United States.

The act of March 3rd, 1893 related only to the disposal of the public lands of the United States.
The details of the act in regard to the location of the boundary lines of counties, the reservations for count,
seats, townsites, parks, etc., were only of a temporary nature. They applied only till the civil laws of the
Territory of Oklahoma could become operative.

S E C O N D .

There is nothing in the Act of March 3rd 1893, either in the title or the body of the act that in

SUPREME COURT PROCEEDINGS IN VACATION.

any way applies to the civil Government of the Territory. All the act is merely an act providing for the disposal of the public domain or that part of it lying within the boundaries of the Cherokee Outlet.

The organic act of the Territory of Oklahoma made ample provision through a legislature provided for therein for the civil government of the Territory.

The act of March 3rd, 1893, provides for roads on the boundary lines of all sections of land in the Cherokee Outlet, but will it be contended that because of the clause in the law reserving the highways on the boundary lines of sections that the county commissioners have no right to change such roads. There is no question but that the congress of the United States only meant to deal temporarily with all rightful subjects of legislation, and that all laws in force in the Territory of Oklahoma, relating to all subjects except the disposal of the public domain attached immediately at noon on the 16 day of September, 1899, to all counties of the Cherokee Outlet. That the Cherokee Outlet became a part of the territory and subject to all its laws.

T H I R D.

Upon the question of sovereignty the court erred in alluding to this principle at all. It does not require sovereignty under the organic act for the enactment of laws for the local convenience of the people which is certainly a rightful subject of legislation.

The importance of, and the widespread influence of the opinion of the Honorable Chief Justice demands the attention of the court to settle this question at the earliest possible time. Wherefore the plaintiff in error asks that this case may be heard at the June term of the Supreme Court upon oral argument, and that on the first day of the term a day certain be fixed for the hearing.

Endorsed as follows:

H. I. Wasson,
Att'y for Plaintiff in error.

#878, George W. Allen vs. The Board of Election Comrs of Grant Co. O.T. Petition for review. Filed May 17/99, Benj. F. Hegler, Clerk Sup. Ct. H. I. Wasson, Atty for pltf in error.
In the Supreme Court of Oklahoma Territory.

George W. Allen, Relator,
Plaintiff in error,
vs.

The Board of Election Commissioners of
Grant County, O.T.

N O T I C E.

To the Board of Election Commissioners of Grant County, O.T.

You are hereby notified that I will have on file with the Clerk of the Supreme Court of Oklahoma Territory, within the time allowed by the rules of said court, a petition for review of the decree, judgment and finding of the Hon. John M. Burford, Chief Justice of the Supreme Court of Oklahoma Territory handed down at chambers at the city of Stillwater on the 9th day of May, 1899. That said petition will ask for review of all the principles and points of law contained in said findings.

H. I. Wasson,
Attorney for plaintiff in error.

I hereby accept service of the above notice for the Board of Election Commissioners of Grant County, O.T. this 15 day of May, 1899.

N. B. Freeland,
Member of said Board of Election
Com'rs

Filed May 17/99, Benj. F. Hegler, Clerk Sup. Ct.

In the Supreme Court of Oklahoma Territory.

George W. Allen, plaintiff,
relator,
vs.

The Board of Election Commissioners of Grant
county, O.T.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

Comes now George W. Allen, plaintiff and relator in the above entitled cause and states as follows for cause for the application for the Writ of Supersedeas against an unlawful election in Grant county, O.T.

The relator states: I have by my attorney duly filed my case in the Supreme Court of Oklahoma and complied with all the requirements of the law and rules of said court. I have served notice upon the Attorney General of the Territory, that I will have on file in said court a motion for review of the findings in this case, before the full bench of said court, as soon as the said cause can be reached. I have filed a certified transcript of the opinion and holdings of the court in the office of the clerk of the district court of Grant county, O.T., and caused the same to be spread on the judgment record of said county, and served special notice by copy in writing on Howard Reed, county clerk of said county, who is the official head of all the machinery of the attempted special election in the said county of Grant, O.T. I now complain that the said Howard Reed, together with a large number of other persons in Grant county, pretending to act as inspectors, judges and Clerks of election and a large number of other persons acting as supporters of them all claiming to be acting under the color of officials of Grant county, and intending to charge the county with great expense and in direct violation to the decree and findings of the court, and of the rights of this relator, and those whom he represents as plaintiffs in this case, whose only show in maintaining his rights and franchise is in his motion for review.

That there is no other process that plaintiff can protect his rights except the writ asked for, viz: a writ of supersedeas against Howard Reed, and all the Judges and Clerks of said election, commanding the said Howard Reed and all those acting under him, to stop proceeding with said election and obey the law as set forth in the decree and rulings of this court in this case as the same are on file in the records of the Supreme Court of the Territory, and the district court of Grant county.

I further state that great public excitement in Grant county over the violation of the judgment of this court, and over the uncertainty of the effect of the election, but in spite of this the parties charged with the power of holding an election persist in going on with it against the most earnest protest of the plaintiff herein.

That the people are excited and the several factions will be in a state of riot if an order of the court does not stay the election till this cause is heard, and the merits of the opinion be determined by a full bench of the Supreme Court of the Territory of Oklahoma.

The relator further states that in the present state of uncertainty there cannot be a fair election even if the relator and the 53 signers to the nomination papers were to remain disfranchised.

H. I. Wasson, Attorney and
George W. Allen.

The above petition was subscribed and sworn to by George W. Allen on this 12 day of May, 1899, before me a notary public in the city of Pond Creek, Grant county, O.T.

(Seal)

(Stamp)

E. D. Walton,
Notary Public.
My Com. Expires June 3rd, 1900.

I hereby certify that there was filed in the office of the clerk of the district court in and for Grant county, O.T. a certified transcript of the finding and opinion of the Chief Justice of the Supreme Court of Okla in the cause of George W. Allen, relator vs. The Board of Election Commissioners of Grant County, O.T.

(Seal)

J. P. Renshaw, Clerk,
By J. H. Asher, Deputy.

SUPREME COURT PROCEEDINGS IN VACATION.

In the Supreme Court of Oklahoma Territory.

In re George W. Allen,
Relator,
vs.

The Board of Election Commissioners of Grant
County, O.T.

N O T I C E.

To Howard Reed, County Clerk of Grant county, O.T., and all others acting under you as pretended election commissioners of election, and as judges and clerks of election for the so-called special election to be held on the 16 day of May, 1899:

You are hereby notified that I, H.I. Wasson, attorney for the relator in the above entitled cause now pending in the Supreme Court of Oklahoma Territory will apply to the Hon. John H. Burford, Chief Justice of the Supreme Court of Oklahoma Territory, at Chambers at the city of Stillwater in said Territory, for a writ of Supersedeas against the election in Grant County, and naming you and the above indicated parties as the parties attempting to hold the unlawful election.

Said application will be made at the hour of 2 o'clock p.m. on Saturday, May 13, 1899, or as soon thereafter as the case can be reached.

H. I. Wasson,
Attorney for relator.

Territory of Oklahoma,) : ss.
Grant County.)

I, O. C. Scoresby being duly sworn state that I served the within notice on Howard Reed, County Clerk of Grant county, O.T. by reading it to him and delivering to him a true copy of it on this 12 day of May 1899.

O. C. Scoresby.

Subscribed and sworn to by O. C. Scoresby, this 12 day of May, 1899, before me a notary public in and for Grant county, O.T.

(Seal)

E. D. Walton,
Notary Public.
My com. expires June 3rd, 1900.

Application presented in Chambers at Stillwater, this May 13th, 1899, and after due consideration supersedeas denied and excepted to by plaintiffs.

Jno. H. Burford,
Chief Justice.

Filed May 17/99, Benj. F. Hegler,
Clerk Supreme Court.

SUPREME COURT PROCEEDINGS IN VACATION.

#878,
In re, George W. Allen,
Relator, et al,
Appellants,
vs.

The Board of Election
Commissioners of Grant
Co., O.T.
Appellee.

Ordered by the Court that this cause be now taken on motion for review.

#878,
In re, George W. Allen,
Relator, et al,
Appellants,
vs.

The Board of Election Commissioners
of Grant County, O.T.
Appellee.

Ordered by the Court that this cause be set for hearing to-morrow.

#878,
In re, George W. Allen,
Relator, et al,
Appellants,
vs.

The Board of Election
Commissioners of Grant
County, O.T.
Appellee.

Come now H. I. Wasson, counsel for plaintiff in error, and Joseph Wisby, and make oral argument for relator herein. And Fred M. Elkin for the Territory makes oral argument herein; and asks leave to file typewritten briefs; which leave is granted.

#878,
In re, George W. Allen,
Relator, et al,
Appellants,
vs.

The Board of Election
Commissioners of Grant
County, O.T.
Appellee.

And now this cause comes on for hearing and determination upon a motion for a review and appeal to the Supreme Court, from the action of the Chief Justice thereof in Chambers, at Stillwater, O.T., May 9th, 1899, denying the application of the said George W. Allen, et al, for a writ of mandamus herein.

And the Court having duly considered said cause, and being fully advised in the premises, finds that the action of the Chief Justice, in vacation, denying said writ should be sustained, and the writ of mandamus denied.

It is therefore ordered and adjudged by the court that the writ of mandamus herein asked for be and the same is hereby denied.

Opinion by Associate Justice Irwin, to be filed later.

SUPREME COURT PROCEEDINGS IN VACATION.

IN THE SUPREME COURT OF OKLAHOMA TERRITORY.

Certificate.

Comes now fifty-three petitioners on the nomination papers designating Centerville as a proper candidate for the county seat of Grant County, O.T., which above described document forms the basis of the action now pending in the Supreme Court of Oklahoma Territory, by their attorney of record, H. I. Wasson, and by their relator Geo. W. Allen, and by their bondsmen for costs and state as follows as instructions to the clerk and to the court.

This cause having now been tried to a final determination in the Supreme Court of Oklahoma we and each of us abide the judgment of the court and now file notice that we shall go no further with the case until the written opinion of the court shall have been filed and the case passed to final judgment in the Supreme Court of Oklahoma Territory. And that no person whatsoever a stranger to the record and to the plaintiffs shall bond or file his any authority whatever to proceed in the case or to file any papers, briefs or pleadings therein or to take out or to meddle with any of those already on file and in reference to this we instruct the clerk to enforce the rules of the office.

Witness our hands and signatures this 10 day of May 1899 at Pond Creek, in Grant County, Okla. Territory.

H. I. Wasson,
Attorney for Plaintiffs

Geo. W. Allen,

Relator for Plaintiffs

George Streeter

T. J. Gentry,

H. C. Holbrook
Bondsmen for costs.

Endorsed as follows:

873, Geo. W. Allen & 53 others vs. Board Elmer Combs and Co. et al. Agreement to not further prosecute after S. C. decision. Filed July 12/99, Lem. W. Neider, Clerk S. Ct.

S U P R E M E C O U R T, J U N E, 1899, T E R M. -- O C T O B E R 21, 17th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Twenty-first day of October, in the year of our Lord one thousand eight hundred and ninety-nine, there being present at the city of Guthrie, the Honorable Jno. H. Burford, Chief Justice of the Supreme Court, and the Honorables Bayard T. Hainer, and Benj. F. Burwell, Associate Justices thereof, it was

And
Ordered that a special session of said Supreme Court be immediately held on the same day, to-wit: October 21, 1899, said court convened in special session pursuant to above order.

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorables Bayard T. Hainer, and Benj. F. Burwell, Associate Justices; Benj. F. Hegler, Clerk; C. H. Thompson, U. S. Marshal, by H. W. Sisson, Deputy; and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the Court for the transaction of business, the following proceedings were had and done, to-wit:

ORDER FIXING TERM OF COURT IN CUSTER COUNTY.

Ordered by the Court, That a term of court be fixed for the county of Custer, Second Judicial District, Territory of Oklahoma, beginning Thursday, October 26, 1899, at 9 o'clock a.m. of said day,

It is further ordered, that the Clerk transmit a certified copy of this order to the Honorable Clinton F. Irwin, Associate Justice of the Supreme Court, and presiding Judge of said District, and to the clerk of said Custer County District Court.

#848,
Morris Brown,
vs. Appellant,
Laura Donnelly,
Appellee.

And now this cause comes on for decision by the court upon the motion for a stay of mandate herein,

And the Court having considered said motion, and being fully advised in the premises finds that a stay should be granted until the determination of the motion for review of this cause, now pending.

It is therefore ordered and adjudged by the Court that a stay of mandate be granted in this cause until the pending motion for review thereof shall be acted upon.

Ordered that Court now adjourn until November 6th, 1899.

SUPREME COURT, JUNE, 1899, TERM--NOVEMBER 6th, 18th JUDICIAL DAY.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Sixth day of November, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session pursuant to adjournment of August 26th, this being the Eighteenth Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorables Jno. L. McAtee, Bayard T. Hainer, Benj. F. Burwell and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Samuel L. Overstreet, U. S. Attorney; Canada H. Thompson, U. S. Marshal; John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceedings were had to-wit.

#811,
A. H. Cranmer, J. W. McCool, et al,
Appellants;
vs.

The Board of County Commissioners
of Beaver County, O.T., J. C.
Williamson, Co. Treas. of said
County, and Harry J. Reece,
Sheriff of said County,
Appellees.

And now this cause comes on for final determination by the Court upon the record, briefs and oral argument therein. And the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court should be reversed and cause remanded.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby remanded to the lower court.

Opinion by Burwell, J.

#451,
John A. Dix,
Appellant,
vs.

John Smith,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be reversed, and cause remanded.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby reversed and cause remanded.

Opinion by Burwell, J.

#730,
William Casey and Charles Casey,
Appellants,
vs.

Mack Mason, Appellee.

And now this cause comes on for final decision by the court upon the record and briefs submitted therein. And the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be reversed, and cause remanded.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby reversed and cause remanded.

Opinion by Burwell, J.

SUPREME COURT, JUNE, 1899, TERM.--NOVEMBER 6th. 18th JUDICIAL DAY.

#808,
Lewis Humphrey and Grant Humphrey,
Louis Wolf, E. A. Davis, J. W.
Watkins, James H. Lowery, and
C. P. Blakely,

Appellants,

vs.

Maggie Hunt, Appellee.

And now this cause comes on for consideration by the court upon the motion to dismiss the appeal herein. And the court having duly considered said motion and being fully advised in the premises finds that this cause should be dismissed.

It is therefore ordered and adjudged by the court that this cause now be and the same is hereby dismissed at the cost of appellant.

Opinion by Burwell, J.

#830,
E. S. Wiggins, as County Treasurer,
and W. W. Carter, A. Ingalls, and
Edward Claunch, as Board County
Commissioners Woodward County,
Appellant,

vs.

The Atchison Topeka & Santa Fe
Ry., Co. Appellee.

And now this cause comes on for final decision by the court upon the record and briefs submitted therein. And the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiffs in error.

Opinion by Burwell, J. All the Justices concurring.

#803,
Roy Parker,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for final decision by the court upon the record and briefs submitted therein. And the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court herein should be reversed, and cause remanded.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby reversed, and cause remanded.

Opinion by Irwin, J.

Admission of Will G. Campbell and
Julius S. Newby to practice,

Comes now H. H. Thurston, attorney of the bar of this court, and moves the admission of Will G. Campbell of the District Court of Custer county, and Julius S. Newby of the District Court of Lincoln county, to practice at the bar of the Supreme Court.

And it appearing to the court that applicants are persons of good moral character, and skilled in the law, the attorney's oath is now administered to them, and it is

Ordered by the court that Will G. Campbell and Julius S. Newby be, and they are hereby admitted to practice at the bar of the Supreme Court of the Territory and all the inferior courts thereof.

Ordered that court now adjourn until 2 o'clock p.m. to-morrow.

SUPREME COURT, JUNE, 1899, TERM.--NOVEMBER 7th, 19th JUDICIAL DAY.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Seventh day of November, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session pursuant to yesterday's adjournment, this being the Nineteenth Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorables Jno. L. McAtee, Bayard T. Hainer, Benj. F. Burwell and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Samuel L. Overstreet, U. S. Attorney; Canada H. Thompson, U. S. Marshal; John C. Ormer, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceedings were had to-wit:

#727,

Burton S. Barnes, John Dalton,
partners as Barnes & Dalton,
Appellants,

vs.

J. W. Lynch, The Ponca City
Land and Improvement Co.
(a corporation)

Appellees.

And now this cause comes on for final decision by the court upon the application for a rehearing of said cause, and upon the record, briefs and oral arguments submitted therein. And the court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court in this cause be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed.

Opinion by McAtee, J.

#884,

The Territory of Oklahoma
ex rel Edgar W. Jones,
Co., Atty. Logan County, O.T.
Appellant,

vs.

S. N. Hopkins, Territorial
Auditor of Oklahoma Territory,
Appellee.

And now this cause comes on for final decision by the court upon the application for a peremptory writ therein. And the court having duly considered said cause, and being fully advised in the premises finds that said peremptory writ should be granted as prayed for.

It is therefore ordered and adjudged by the court that a peremptory writ be granted in this cause as prayed for in the petition.

Opinion by Hainer, J.

#743,

Leader Printing Company,
(a corporation,) Appellant,

vs.

Robert A. Lowry, Pres. & Sec.
Board of Regents, A. & M. College,
et al,

Appellees.

And now this cause comes on for final decision by the court upon the record and briefs submitted therein. And the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be reversed and the cause remanded.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby reversed and cause remanded.

Opinion by Burwell, J.

S U P R E M E C O U R T, J U N E, 1899, T E R M. -- N O V E M B E R 7th, 19th J U D I C I A L D A Y.

#806,
G. M. Carpenter,
Appellant,
vs.

W. F. Pierce, Sheriff Kay Co.,
Bill Myers and Dick Myers,
Deputy Sheriffs Kay Co.
Appellees.

And now this cause comes on for final decision by the court upon the record and briefs submitted therein. And the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court herein should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed.

Opinion, Per curiam.

#117,
Veeder B. Paine,
Appellant,
vs.

John Foster, et al,
Appellees.

And now this cause comes on for final decision by the court upon the application for a rehearing of the same, and on the record, briefs and oral arguments therein. And the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be, and the same is hereby affirmed.

Opinion by Burwell, J., Justice McAtes dissenting.

ORDER CHANGING TERM IN NOBLE COUNTY.

Ordered by the Court: That the term of the District Court of the County of Noble, in the Fourth Judicial District, heretofore fixed for December 4, 1899, be and the same is hereby fixed for Monday, December 11, 1899.

It is further ordered: That all causes at issue and standing for trial at the date heretofore fixed, shall stand for trial at the date provided for in this order. And all orders, writs and summonses of every character returnable to the term as heretofore fixed, shall be returnable and stand for determination at the date as provided for in this order. And all persons under bond or recognizance to appear at any term of court as heretofore fixed, shall be required to appear on the first day of the term as fixed in this order.

It is further ordered by the Court: That the order heretofore made fixing said Term for December 4, 1899, be and the same is hereby vacated and set aside.

It is further ordered: That the Clerk transmit a certified copy of this order to each of the District Courts of the Territory, and to the U. S. Attorney and U. S. Marshal.

Jno. H. Burford,
Chief Justice.

SUPREME COURT, JUNE, 1899, TERM--NOVEMBER 7th, 19th JUDICIAL DAY.

ORDER ASSIGNING JUSTICE BURWELL TO KAY COUNTY DISTRICT COURT.

It appearing to the court, That in the District Court of Kay County a change of Judge has been granted in the case of The Territory vs. Clyde Mattox, and that the regular presiding Judge of said court will be necessarily absent therefrom on judicial business, for a period beginning December 1, 1899, it is therefore

Ordered by the Court: That the Hon. Benj. F. Burwell, Associate Justice of the Supreme Court and presiding Judge of the Third Judicial District, be and he is hereby assigned to the District Court of Kay County in the Fourth Judicial District, to try the case of The Territory vs. Clyde Mattox, beginning December 1, 1899, or whenever said case shall be triable, and hold the District Court of said County, and try and determine all causes pending therein, during the absence of the Hon. Bayard T. Hainer, the regular presiding Judge of said District, from said County.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order to the Clerks of the said Third and Fourth Districts.

Jno. H. Burford,
Chief Justice.

ORDER ASSIGNING CHIEF JUSTICE BURFORD TO PRESIDE AT THE DISTRICT COURT OF OKLAHOMA COUNTY.

It appearing to the Court, That in the District Court of Oklahoma County there are certain matters and causes pending wherein the regular presiding Judge, the Hon. B. F. Burwell, is disqualified to sit; and that he will be necessarily absent from said District Court on judicial business for a period beginning December 1, 1899, it is therefore

Ordered by the Court: That the Honorable Jno. H. Burford, Chief Justice of the Supreme Court of the Territory of Oklahoma, and presiding Judge of the First Judicial District thereof, be and he is hereby assigned to the District Court of Oklahoma County, in the Third Judicial District, beginning December 1, 1899, to preside in said court, and hear all causes therein in which the regular presiding Judge, Associate Justice Burwell, is for any reason disqualified to sit, and hold said court, and try and determine all causes pending therein, during the absence of the regular Judge therefrom.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order to each of the Clerks of the said First and Third Districts.

Jno. H. Burford,
Chief Justice.

ORDER ASSIGNING JUSTICE HAINER TO PRESIDE AT THE DISTRICT COURT OF LOGAN COUNTY.

(See page 156 for this order)

H. C. Masters, Sheriff
of Ray County, Mo.
Appellee.

The Board of County Commissioners
of the County of Washita,
Appellees.

Board County Commissioners
of the county of Washita,
Appellees.

ordered by the Court that Henry S. Johnston, and Walter M. Rittenhouse, be and they are hereby now admitted to practice in the Supreme Court of the Territory and all the inferior courts thereof.

Ordered that court now adjourn until 11 o'clock to-morrow morning.

SEP 23 1899, FRIDAY, 1899, FRIDAY.—"GIVE" 8th, 20th OFFICIAL DAY.

CONFIDENTIAL

BE REMEMBERED, That on this the Eighth day of November, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in regular session pursuant to yesterday's adjournment, this being the Twentieth Judicial day of said term;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Honorables Jno. L. McAtee, Bayard T. Hainer, Benj. H. Burwell and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Samuel L. Overstreet, U. S. Attorney; Canada H. Thompson, U. S. Marshal; John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceedings were had to-wit:

#925.

Louis Maass, Guardian
of Conrad Maass,
Appellant,
vs.

vs.

W. H. Phillips, Sheriff
of Blaine County, O.T.
Appellee.

And now this cause comes on for final decision by the Court upon the application of the petitioner herein Conrad Maass, for a writ of habeas corpus, and upon the arguments of counsel for the petitioner and the Territory. And the Court having duly considered said petition and arguments, finds that the writ asked for should be denied, and petitioner remanded to the custody of the Sheriff of Maine County.

It is therefore ordered and adjudged by the Court that the writ herein asked for be and the same is hereby denied.

And it is further ordered by the Court that the petitioner Conrad Haass, be remanded to the custody of the Sheriff of Blaine County, Territory of Oklahoma, who is directed to carry into execution the judgment of the lower court.

[illegible]

It appearing to the Court, That in the District Court of Garfield County a change of Judge has been granted in the cases of The Territory vs. C. G. Hodge, and The Territory vs. C. H. Gannon, and that the regular presiding Judge of said court will be necessarily absent therefrom on judicial business, it is therefore

Ordered by the Court: That the Hon. Clinton F. Irwin, Associate Justice of the Supreme Court and presiding Judge of the Second Judicial District, be and he is hereby assigned to the District Court of Garfield County, December 6, 1899, to try the cases of The Territory vs. J. S. Dodge, and The Territory vs. C. E. Gannon, and any other cases pending in said court, during the absence of the regular presiding Judge.

It is further ordered by the Court: That the Clerk transmit certified copies of this order to the Clerks of the said Second and Fifth Districts.

Pro. J. J. Purford,
Chief Justice.

21st NOVEMBER 1899, JUNE, 1899, TUESDAY--NOVEMBER 8th, 20th JUDICIAL DAY.

ORDER ASSIGNING JUSTICE MCATEE TO KINGFISHER COUNTY DISTRICT COURT.

It appearing to the Court, That the Hon. Clinton F. Irwin, Associate Justice of the Supreme Court, and presiding Judge of the District Court of Kingfisher County, in the Second Judicial District, will be necessarily absent from said District Court on judicial business for a period beginning November 20, 1899, it is therefore

Ordered by the Court: That the Hon. Jno. L. Mcatee, Associate Justice of the Supreme Court, and presiding Judge of the Fifth Judicial District, be and he is hereby assigned to the District Court of Kingfisher County, in the Second Judicial District, beginning November 20, 1899, to hold said court, and try and determine all causes pending therein, during the absence of the regular presiding Judge.

It is further ordered by the Court: That the Clerk transmit certified copies of this order to the Clerks of the said Second and Fifth Districts.

Jno. H. Burford,
Chief Justice.

ORDER ASSIGNING JUSTICE MCATEE TO CANADIAN COUNTY DISTRICT COURT.

It appearing to the Court, That the Hon. Clinton F. Irwin, Associate Justice of the Supreme Court, and presiding Judge of the District Court of Canadian County, in the Second Judicial District, will be necessarily absent from said District Court, on judicial business, for a period beginning December 6, 1899, it is therefore

Ordered by the Court: That the Hon. Jno. L. Mcatee, Associate Justice of the Supreme Court, and presiding Judge of the Fifth Judicial District, be and he is hereby assigned to the District Court of Canadian County, in the Second Judicial District, beginning December 6, 1899, to hold said court, and try and determine all causes pending therein, during the absence of the regular presiding Judge.

It is further ordered by the Court: That the Clerk transmit certified copies of this order to the clerks of the said Second and Fifth Districts.

Jno. H. Burford,
Chief Justice.

ORDER ASSIGNING JUSTICE MCATEE TO GRANT COUNTY DISTRICT COURT.

It appearing to the Court, That in the District Court of Grant County, a change of Judge has been granted in the case of The Territory vs. Covey, and that the regular presiding Judge of said court will be necessarily absent therefrom on judicial business, it is therefore

Ordered by the Court: That the Hon. Clinton F. Irwin, Associate Justice of the Supreme Court, and presiding Judge of the Second Judicial District, be and he is hereby assigned to the District Court of Grant County, in the Fifth Judicial District, to try the case of The Territory vs. Covey, and hold said court, and try and determine all causes pending therein, during the absence of the regular trial Judge.

It is further ordered: That the Clerk transmit a certified copy of this order to the Clerks of said Second and Fifth Districts.

Jno. H. Burford,
Chief Justice.

SUPREME COURT, TERM, 1899, TERM,--NOVEMBER 8th, 20th JUDICIAL DAY.

#610, 601,

George W. Cutcelt,
Appellant,
vs.

William Collier,
Appellee.

And now this cause comes on for determination of the court upon the application to grant a rehearing of the same. And the Court having duly considered said application, and being fully advised in the premises finds that a rehearing of this cause should be granted.

It is therefore ordered and adjudged by the Court that a rehearing of this cause be and the same is hereby granted.

#614 1/2,

Lottie Jackson,
Appellant,
vs.

Oliver C. Thornton,
Appellee.

And now this cause comes on for determination of the court upon the application for a rehearing thereof. And the Court having duly considered said application, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that a rehearing of this cause be and the same is hereby denied.

It is further ordered by the court that a stay of mandate for 30 days be granted in this cause, on the application of counsel for defendant in error.

#824,

T. B. Trulock, J. B. Trulock
H. C. Bradford, R. G. Trulock,
and Mariana P. Trulock, partners
as El Reno Ice & Coal Company,
Appellants,
vs.

J. R. Blair,
Appellee.

And now this cause comes on for decision by the Court upon the application for a rehearing thereof. And the Court having duly considered said application, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the application for a rehearing of this cause be, and the same is hereby denied.

#725,

W. T. Vowell,
Appellant,
vs.

Elizabeth Taylor and
George Taylor,
Appellees.

And now this cause comes on for decision by the Court upon the application for a rehearing thereof. And the Court having duly considered said application, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the application for a rehearing of this cause be, and the same is hereby denied.

SUPREME COURT, JUNE, 1899, TERM.--NOVEMBER 8th, 20th JUDICIAL DAY.

#875,
Frank B. Garton and
Lizzie D. Garton,
Appellants,
vs.
Hudson Kimberly Publishing
Company,
Appellee.

And now this cause comes on for decision by the Court upon the application for a rehearing thereof. And the Court having duly considered said application, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the application for a rehearing of this cause be, and the same is hereby denied.

#740,
John P. Glover,
Appellant,
vs.
Benj. F. Swartz,
Appellee.

And now this cause comes on for decision by the Court upon the application for a rehearing thereof. And the Court having duly considered said application, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the application for a rehearing of this cause be, and the same is hereby denied.

#814,
Ed. Bridges,
Appellant,
vs.
D. E. Thomas,
Appellee.

And now this cause comes on for decision by the Court upon the application for a rehearing thereof. And the Court having duly considered said application, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the application for a rehearing of this cause be, and the same is hereby denied.

#750,
Henry Betts, J. J. Lowe,
A. Hays, and J. W. Folsom,
Appellants,
vs.
Milton Mills,
Appellee.

And now this cause comes on for decision by the Court upon the application for a rehearing thereof. And the Court having duly considered said application, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the application for a rehearing of this cause be, and the same is hereby denied.

#849,
H. Rawlings,
Appellant,
vs.

John A. Vanley, Rothenburg
Schloss, The Hammar Paint Co.
W. A. Stickney Cigar Co. A. H.
Foster & Co. and H. E. Martin
and E. Boyes, Appellees.

SUPREME COURT, JUNE, 1899, TERM--NOVEMBER 8th, 20th JUDICIAL DAY.

And now this cause comes on for decision by the Court upon the application for a rehearing thereof. And the Court having duly considered said application, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the application for a rehearing of this cause be, and the same is hereby denied.

#852,
Benj. L. Kirtley,
Appellant,
vs.

May Dykes,
Appellee.

And now this cause comes on for decision by the Court upon the application for a rehearing thereof. And the Court having duly considered said application, and being fully advised in the premises finds that a rehearing of this cause should be granted.

It is now therefore ordered and adjudged by the Court that a rehearing of this cause be, and the same is hereby granted.

#903,
Russell E. Gardner,
Appellant,
vs.

Board of Education of the
City of Perry, O.T.
Appellee.

And now this cause comes on for determination by the Court upon the motion to dismiss the appeal herein. And the Court having duly considered said motion, and being fully advised in the premises, finds that the same should be denied.

It is therefore ordered by the Court that the motion to dismiss this cause be, and the same is hereby denied. And defendant is allowed 20 days to answer writ.

#916,
T. F. McKennon,
Appellant,
vs.

Annie McKennon,
Appellee.

And now this cause comes on for determination by the Court upon the motion to dismiss the appeal herein. And the Court finds that said motion should be sustained, and appeal dismissed.

It is therefore ordered by the Court that the appeal herein should be dismissed at the cost of appellant.

#868,
Ed. Jones and
Mattie Jones,
Appellants,
vs.

Ed. D. Kelly,
Appellee.

And now this cause comes on for determination by the Court upon the motion to dismiss the appeal herein. And the Court finds that said motion should be sustained, and appeal dismissed.

It is therefore ordered by the Court that the appeal herein should be dismissed at the cost of appellant.

SUPREME COURT, JUNE, 1899, TERM--NOVEMBER 8th, 20th JUDICIAL DAY.

ORDER FIXING TERM FOR GREER COUNTY.

Ordered by the Court: That a term of the District Court of the County of Greer, and Territory of Oklahoma, be and is hereby fixed, to begin Monday, December 11, 1899, at Mangum.

It is further ordered: That the Clerk transmit a certified copy of this order to each of the District Courts of the Territory, and to the U. S. Attorney and U. S. Marshal.

Jno. H. Burford,
Chief Justice.

ORDER FIXING TERMS IN FIRST DISTRICT.

Ordered by the Court: That terms of court be fixed for the District Courts of the First Judicial District of the Territory of Oklahoma as follows, to-wit:

For the County of Lincoln, at Chandler, the Third Monday in February, 1900.

For the County of Logan, at Guthrie, the Second Monday in March, 1900.

For the County of Payne, at Stillwater, the Fourth Monday in April, 1900.

For the County of Woodward, Woodward, the Second Monday in May, 1900.

It is further ordered by the Court: That all orders heretofore made fixing terms in conflict herewith, be and the same are hereby vacated and set aside.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order to each of the District Courts of the Territory, and to the U. S. Attorney and U. S. Marshal.

Jno. H. Burford,
Chief Justice.

Ordered that court now adjourn to next regular session, the First Tuesday in
January, 1900.

SUPREME COURT PROCEEDINGS IN VACATION.

UNITED STATES OF AMERICA, vs:

The President of the United States of America,

(Seal)

To the Honorable the Judges of the Supreme Court of the Territory of Oklahoma,

GREETING:

WHEREAS, lately in the Supreme Court of the Territory of Oklahoma, before you, or some of you, in a cause between The Guthrie National Bank, plaintiff in error, and The City of Guthrie, defendant in error, wherein the judgment of the said Supreme Court, entered in said cause on the 11th day of June, A.D. 1897, is in the following words, viz:

"Now, on the eleventh day of June, A.D. 1897, said cause came on for trial in its regular order, the plaintiff in error appearing by its attorney, John W. Shartel, Esq., and the defendant in error appearing by Bayard T. Hainer, Esq., city attorney; and

Thereupon said cause is submitted to the consideration of the court, and it appearing to the court, upon an examination of the record, that the only question involved in said cause is the validity and constitutionality of article one of chapter thirteen of the Revised Statutes of Oklahoma Territory of the year 1893, upon which this court, on full consideration, in the cases of Bank vs. McElhinney, No. 123, and Martin vs. Gray, receiver, No. 358, have heretofore affirmed the proposition that the said statute is unconstitutional and void and all proceedings taken thereunder are null and void, and the court below having ruled in accordance with said decisions in making the ruling complained of, this cause is affirmed on the authority of the foregoing decision of this court; to which judgment of affirmance the plaintiff in error duly excepted and excepts.

It is therefore adjudged by the court that the plaintiff in error take nothing by its petition in error, and that the defendant in error recover the costs of this proceeding, taxed at _____ dollars; to which judgment the plaintiff in error duly excepted and excepts," as by the inspection of the transcript of the record of the said Supreme Court, which was brought into the Supreme Court of the United States by virtue of a writ of error and an appeal agreeably to the act of Congress, in such case made and provided, fully and at large appears.

AND WHEREAS, in the present term of October, in the year of our Lord one thousand eight hundred and ninety-eight, the said cause came on to be heard before the said Supreme Court, on the said transcript of record, and was argued by counsel:

On consideration whereof, it is now here ordered and adjudged by this Court that the judgment of the said Supreme Court in this cause be, and the same is hereby, reversed with costs; and that the said plaintiff in error, The Guthrie National Bank, recover against the said defendant in error one hundred and fifty-three dollars for its costs herein expended and have execution therefor.

And it is further ordered that this cause be, and the same is hereby, remanded to the said Supreme Court with directions to reverse the judgment of the district court and remand the cause to that court with directions to proceed to a hearing of the claims upon their merits.

April 3, 1899.

You, therefore, are hereby commanded that such execution and further proceedings be had in said cause, in conformity with the opinion and judgment of this court as according to right and justice, and the laws of the United States, ought to be had, the said writ of error and appeal notwithstanding.

WITNESS the Honorable MELVILLE W. FULLER, Chief Justice of the United States, the 19th day of June, in the year of our Lord one thousand eight hundred and ninety-nine.

Costs of plaintiff in error

Clerk.....\$56.00

Printing Record ...77.00

Attorney.....20.00
\$153.00

James H. McKenney,

Clerk of the Supreme Court of the United States.

SUPREME COURT PROCEEDINGS IN VACATION.

(This order belongs in proceedings of August 24th, 1899.)

The Guthrie National Bank,)
 Plaintiff in error, :
 against (No. 565.
 The City of Guthrie,)
 Defendant in error. :

Now on the twenty-fourth day of August, 1899, is presented to the Court the mandate of the Supreme Court of the United States, of the following substance and tenor, to-wit:

UNITED STATES OF AMERICA, ss:

THE PRESIDENT OF THE UNITED STATES OF AMERICA,

To the Honorable the Judges of the Supreme Court of the Territory of Oklahoma.

GREETING:

"WHEREAS, lately in the Supreme Court of the Territory of Oklahoma, before you, or some of you, in a cause between The Guthrie National Bank, plaintiff in error, and the City of Guthrie, defendant in error, wherein the judgment of the said Supreme Court, entered in said cause, on the 11th day of June, A.D., 1897, in the following words, viz:

"Now, on this eleventh day of June, A.D., 1897, said cause came on for trial in its regular order, the plaintiff in error appearing by its attorney, John W. Shartel, Esq., and the defendant in error appearing by Bayard T. Hainer, Esq., city attorney; and

Thereupon said cause is submitted to the consideration of the court, and it appearing to the court, upon an examination of the record, that the only question involved in said cause is the validity and constitutionality of article one of chapter thirteen of the Revised Statutes of Oklahoma Territory of the year 1893, upon which this court, on full consideration, in the cases of Bank vs. McElhinney, No. 123, and Martin vs. Gray, receiver, No. 358, have heretofore affirmed the proposition that the said statute is unconstitutional and void and all proceedings taken thereunder are null and void, and the court below having ruled in accordance with said decisions in making the ruling complained of, this cause is affirmed on the authority of the foregoing decision of this court; to which judgment of affirmance the plaintiff in error duly excepted and excepts.

"It is therefore adjudged by the Court that the plaintiff in error take nothing by its petition in error, and that the defendant in error recover the costs of this proceeding taxed at _____ dollars; to which judgment the plaintiff in error duly excepted and excepts."

as by the inspection of the transcript of the record of the said Supreme Court, which was brought into the Supreme Court of the United States by virtue of a writ of error and appeal agreeably to the Act of Congress, in such case made and provided, fully and at large appears.

"AND WHEREAS, in the present term of October, in the year of our Lord one thousand eight hundred and ninety-eight, the said cause came on to be heard before the said Supreme Court, on the said transcript of record, and was argued by counsel:

"ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court that the judgment of the said Supreme Court in this cause be, and the same is hereby, reversed, with costs. And that the said plaintiff in error, The Guthrie National Bank, recover against the said defendant in error One hundred and fifty-three dollars for its costs herein expended and have execution therefor.

"And it is further ordered that the cause be, and the same is hereby, remanded to the said Supreme Court with directions to recover the judgment of the district court and remand the cause to that court with directions to proceed to a hearing of the claims upon their merits. April 3, 1899.

"You, therefore, are hereby commanded that such execution and further proceedings be had in said cause, in conformity with the opinion and judgment of this Court, as according to right and justice, and the laws of the United States, ought to be had, the said writ of error and appeal notwithstanding.

"WITNESS the Honorable MELVILLE W. FULLER, Chief Justice of the United States, the 19th day of June, in the year of our Lord one thousand and eight hundred and ninety-nine.

Costs of plff. in error.
 Clerk, . . . \$55.00
 Printing Record, . . 77.00
 Attorney, . . . 20.00
 \$152.00

(Signed) James H. McKenney,
 Clerk of the Supreme Court of the United States.

SUPREME COURT PROCEEDINGS IN VACATION.

(The following orders belong in proceedings of August 26th, 1899.)

ORDER ASSIGNING CHIEF JUSTICE BURFORD.

Whereas, It appearing to the Court that Hon. B. T. Hainer, Presiding Judge of the Fourth Judicial District, will be absent from his District at the time for holding the Fall 1899 term of the District Court at Pawhuska, and will be unable to hold said term of court, It is hereby

Ordered that Chief Justice Hon. Jno. H. Burford be and he is hereby designated and directed to hold said term of the District Court at Pawhuska, commencing on October the 24th, 1899.

It is further ordered by the Court: That the Clerk transmit certified copies of this order to the clerks of said First, Fourth and Pawhuska Districts, and to the U. S. Attorney and U. S. Marshal.

Jno. H. Burford,
Chief Justice.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

ORDER ASSIGNING JUDGE IRWIN TO PRESIDE AT SPECIAL TERM IN OKLAHOMA COUNTY.

WHEREAS, It has been made to appear to the Court that there are certain causes pending in the District Court of Oklahoma County, wherein the presiding Judge Hon. B. F. Burwell is disqualified to act, it is now

Ordered, That a special term of the District Court of Oklahoma County be held at Oklahoma City, in said Oklahoma County, commencing on the 22nd day of September, 1899, for the purpose of hearing and determining said causes and matters wherein the presiding Judge of said Court is disqualified to preside. And Hon. C. F. Irwin, Judge of the Second Judicial District, is hereby designated to hold and preside at said term of Court, and to hear and determine all such matters as may be pending in said court at said term.

It is further ordered that the Clerk transmit certified copies of this order to each District Court of the Territory, and to the U. S. Attorney and U. S. Marshal.

Jno. H. Burford,
Chief Justice.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

(Seal)

ORDER ASSIGNING ASSOCIATE JUSTICE HAINER TO WOODWARD COUNTY.

Whereas it appearing to the Court, That the Hon. Jno. H. Burford, Chief Justice of the Supreme Court of the Territory of Oklahoma, and presiding Judge of the First Judicial District, in said Territory, will be absent from his said District, and unable to hold the District Court in Woodward County, in said Territory, after the 20th day of October, 1899, it is hereby

Ordered, That the Hon. Bayard T. Hainer, Associate Justice of said Supreme Court, and presiding Judge of the Fourth Judicial District of said Territory, is hereby designated and assigned to said First District, to hold the remainder of the term of said Woodward County District Court, after said 20th day of October, 1899, during the absence of the said Jno. H. Burford, Judge, from said District.

It is further ordered by the Court: That the Clerk transmit certified copies of this order to the Clerk of the First and Fourth Districts, and to the United States Attorney, and United States Marshal.

Jno. H. Burford,
Chief Justice.

(Seal)

Attest:
Benj. F. Hegler,
Clerk Supreme Court.

SUPREME COURT PROCEEDINGS IN VACATION.

In the Supreme Court of the Territory of Oklahoma.

D. M. Goodrich,)
 Plaintiff in error, :
 vs. (Order Staying Mandate.
 :
 The Oklahoma National Bank :
 and T. W. Williamson,)
 Defendants in error.:

Be it remembered that on this the 8th day of September, A.D., the above named defendants in error presented to the undersigned, one of the Associate Justices of said court, their petition for review in the above entitled action, and after carefully examining the same, and being of the opinion that there is a probability that a review in said action will be granted,

It is therefore ordered that the mandate in said case shall be stayed until after the hearing of said petition for review by the Court.

And the Clerk of said Supreme Court will refrain from issuing such mandate until further ordered by this court.

Bayard T. Hainer,
 Associate Justice Sup. Ct.

In the District Court of Kay County, Oklahoma Territory.

The Territory of Oklahoma,)
 Plaintiff, :
 vs. (:
 :
 Clyde Mattox,)
 Defendant. :

Now on this 3rd day of October, 1899, this cause comes on to be heard, the defendant being present in person and by his attorneys Temple Houston, E. Ree Guthrey, W. L. Barnum and S. A. McGinnis, the Territory being represented by the County Attorney of Kay County.

Whereupon the said defendant presented his sworn application for a change of Judge upon ground of the bias and prejudice of Bayard T. Hainer, Judge, in accordance with the statute.

Thereupon, the Court being fully advised in the premises, grants the said application.

It is, therefore, considered and ordered by the Court that the Clerk of this Court immediately transmit to the Clerk of the Supreme Court of Oklahoma Territory, a certified copy of this order granting the change of Judge in accordance with the statute in such case made and provided.

Bayard T. Hainer,
 Judge.

In the Supreme Court of the Territory of Oklahoma.

Jonas H. Cook, et al,)
 Plaintiffs in error, :
 vs. (ORDER.
 :
 Emma D. McCord, et al,)
 Defendants in error.:

And now, to-wit: On this the 14 day of October, 1899, the above entitled cause comes on to be heard before me upon the application of defendants in error for an order staying the mandate of the Supreme Court in the above entitled cause, and upon consideration of said application and proof submitted in support thereof, it is by me ordered that the mandate in the above entitled cause shall be staid pending a hearing upon the application for a rehearing, duly filed in said cause, and the clerk of the Supreme Court is hereby directed to withhold the mandate therein. Witness my hand at my chambers this the 14 day of September, 1899.

John W. Sanford, Judge of the Supreme Court.

SUPREME COURT PROCEEDINGS IN VACATION.

UNITED STATES OF AMERICA,) ;
Territory of Oklahoma.) IN THE SUPREME COURT.

Order of Assignment of Judge.

WHEREAS, It has been made to appear to me by a certified copy of the order of court that a change of Judge has been granted in the case of The Territory of Oklahoma versus R. M. Murchison, now pending in the district court of Garfield County, and that the Honorable John L. McAttee, presiding Judge of the Fifth Judicial District is not qualified to sit in said cause by reason of the bias and prejudice of said Judge,

IT IS NOW THEREFORE hereby ordered that Honorable Clinton F. Irwin, Associate Justice of the Supreme Court of the Territory of Oklahoma and presiding Judge of the Second Judicial District be and he is hereby assigned to the district court of Garfield County for the trial of said cause of The Territory of Oklahoma versus R. M. Murchison; and the Clerk of the Supreme Court is hereby directed to record this order and transmit one certified copy hereof to the Clerk of the district court of Garfield County, and one copy to the Honorable Clinton F. Irwin.

Done in Chambers at the city of Guthrie, this 17th day of November, A.D. 1899.

Jno. H. Burford,
Chief Justice Supreme Court.

UNITED STATES OF AMERICA,) ;
Territory of Oklahoma.) IN THE SUPREME COURT.

Order of Assignment of Judge.

WHEREAS, It has been made to appear to me by a certified copy of the order of court that a change of Judge has been granted in the case of The Territory of Oklahoma versus Harry Hamilton, now pending in the District Court of Garfield County, and that the Honorable John L. McAttee, presiding Judge of the Fifth Judicial District is not qualified to sit in said cause, by reason of the bias and prejudice of said Judge,

It is now therefore, hereby ordered that Honorable Clinton F. Irwin, Associate Justice of the Supreme Court of the Territory of Oklahoma and Presiding Judge of the Second Judicial District be and he is hereby assigned to the district court of Garfield County for the trial of said cause of The Territory of Oklahoma versus Harry Hamilton; and the Clerk of the Supreme Court is hereby directed to record this order and transmit a certified copy hereof to the Clerk of the District Court of Garfield County, and also a certified copy hereof to the Honorable Clinton F. Irwin.

Done in Chambers at the city of Guthrie, this 17th day of November, A.D. 1899.

Jno. H. Burford,
Chief Justice Supreme Court.

SUPREME COURT, SPECIAL SESSION, NOVEMBER 18, 1899.

UNITED STATES OF AMERICA,
 TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, that on this the Eighteenth day of November, in the year of our Lord one thousand eight hundred and ninety-nine, the Supreme Court of the Territory of Oklahoma convened in special session, pursuant to the call of the Chief Justice;

Present, the Honorable Jno. H. Burford, Chief Justice; Honorables Bayard T. Hainer and Benj. F. Burwell, Associate Justices; Benj. F. Hegler, Clerk; and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business, said session having been called for the purpose of the temporary appointment of U. S. Attorney; it appearing that Associate Justice John L. McAtee is not present, it is now by the court

Ordered that this special session be now adjourned to Monday morning next.

And afterward, to-wit: on the same day the court again convened in special session;

Present, the Honorable Jno. H. Burford, Chief Justice; Honorables John L. McAtee, Bayard T. Hainer, and Benj. F. Burwell, Associate Justices; Benj. F. Hegler, Clerk, and John C. Orner, Court Crier;

Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceeding was had to-wit:

Ordered by the Court that the adjournment order heretofore to-wit: this day made, be and the same is hereby vacated and set aside, and that the court do now convene for the purpose of the temporary appointment of a U. S. Attorney vice Samuel L. Overstreet, deceased.

In the matter of the appointment of a)
 United States Attorney to fill vacancy.)

Whereas, It being made to appear to the Court that there now exists a vacancy in the office of United States Attorney for the Territory of Oklahoma, it is now hereby

Ordered by the Supreme Court of the Territory of Oklahoma: That John W. Scothorn, of Guthrie, in said Territory, be and he is hereby appointed to exercise the duties of the office of United States Attorney in and for the Territory of Oklahoma, until such vacancy shall be filled; and a duly certified copy of this order shall be his commission and authority.

The Clerk of this court is ordered to transmit a duly certified copy of this order to the Attorney General of the United States.

Jno. H. Burford,
 Chief Justice.

Comes now the said John W. Scothorn, and in open court takes his oath of office, as follows, to-wit:

UNITED STATES OF AMERICA,)
 : ss. IN THE SUPREME COURT.
 Territory of Oklahoma.)

I, John W. Scothorn, do solemnly swear that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have never sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God.

Subscribed and sworn to before me this 18th day of November, A.D. 1899.

Attest: Benj. F. Hegler, Clerk Sup. Ct.

John W. Scothorn,
 John H. Burford, Chief Justice.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

Ordered that Court now adjourn until the next regular session.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

Humphrey, et al,	)	
	:	
vs. Pliffs. in error,	(	#803.
	:	
Maggie Hunt,	)	
	:	
Deft. in error.	:	

S U P E R S E D E A S .

Be it remembered that on this 17th day of November, 1899, personally appeared before me, C. F. Irwin, Associate Justice of the Supreme Court of the Territory of Oklahoma, at my chambers in the City of Kingfisher, in Kingfisher County, O.T., the above plaintiffs in error by their attorneys, Geo. S. Green and J. C. Robberts, and presented to me the petition for rehearing in the above entitled case, and it appearing to me that a good and sufficient appeal bond had heretofore been given by the plaintiffs in error in said case, and that no great hardship would result from a stay of execution until a hearing could be had by the Supreme Court upon said petition for rehearing, and after examining said petition, it appearing to me that a rehearing should be considered by the Supreme Court of this Territory in the above entitled case, and that the plaintiffs in error should be given another opportunity to be heard upon the motion to dismiss the appeal in the above case.

It is hereby ordered by me, C. F. Irwin, one of the Associate Justices of the Supreme Court of the Territory of Oklahoma, that further proceedings in said case be staid until a rehearing can be had upon the petition hereto attached.

Witness my hand this 17th day of November, 1899.

C. F. Irwin,

Associate Justice of the Supreme
Court of the Territory of Oklahoma.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

Burton S. Barnes, and	)	
John W. Dalton, partners	:	
as Barnes & Dalton,	(	
	:	
vs. Plaintiffs in error,	:	No. 727.
	:	
The Ponca City Land &	(	
Improvement Company,	:	
James W. Lynch, et al	)	
	:	
Defendants in error.	:	

ORDER OF SUPERSedeas.

And now on this, the 20th day of November, 1899, this cause coming on to be heard before me, the Honorable John H. Burford, as Chief Justice of the Supreme Court of the Territory of Oklahoma, on an application of the plaintiffs in error herein for an order of supersedeas, holding up, superseding and suspending the mandate of the Supreme Court in the above entitled cause, issued under the decision therein:

It is by me, the said John H. Burford, as Chief Justice, after hearing said application and considering the same, together with the petition of the plaintiffs in error for a rehearing, ordered and directed

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

that the Clerk of the Supreme Court hold up the mandate in said cause,, and that the decision of the Supreme Court therein be, and the same hereby is, held up, suspended and superseded until after the hearing of the plaintiffs in error's petition for rehearing, and until the further order of the Supreme Court therein, upon plaintiffs in error giving a bond in the sum of \$1,500-five days given to give said bond and proceedings stayed until said bond is given.

WITNESS, the Honorable JOHN H. BURFORD, as Chief Justice of the Supreme Court of the Territory of Oklahoma, at Chambers, in the city of Guthrie, Logan County, Oklahoma Territory, this the 22nd day of November, 1899.

Jno. H. Burford,

Chief Justice of the Supreme Court
of Oklahoma Territory.

UNITED STATES OF AMERICA,) ss.
Territory of Oklahoma.)

IN THE SUPREME COURT.

Order of Assignment of Judge.

WHEREAS, It has been made to appear to me by a certified copy of the order of court that a change of Judge has been granted in the case of The Territory of Oklahoma versus Robert Scoggins, now pending in the district court of Logan County, and that the Honorable Jno. H. Burford, presiding Judge of the First Judicial District is not qualified to sit in said cause by reason of the bias and prejudice of said Judge,

IT IS NOW THEREFORE hereby ordered that Honorable Bayard T. Hainer, Associate Justice of the Supreme Court of the Territory of Oklahoma and presiding Judge of the Fourth Judicial District be and he is hereby assigned to the District Court of Logan County for the trial of said cause of The Territory of Oklahoma versus Robert Scoggins; and the Clerk of the Supreme Court is hereby directed to record this order and transmit one certified copy hereof to the Clerk of the District Court of Logan County, and one copy to the Honorable Bayard T. Hainer.

Done in Chambers at the city of Guthrie, this 23d day of November, A.D. 1899.

Jno. H. Burford,

Chief Justice Supreme Court.

UNITED STATES OF AMERICA,) ss.
Territory of Oklahoma.)

IN THE SUPREME COURT.

Order of Assignment of Judge.

WHEREAS, It has been made to appear to me by a certified copy of the order of court that a change of Judge has been granted in the case of The Territory of Oklahoma versus Henry Pruden, now pending in the District Court of Logan County, and that the Honorable Jno. H. Burford, presiding Judge of the First Judicial District is not qualified to sit in said cause by reason of the bias and prejudice of said Judge,

IT IS NOW THEREFORE hereby ordered that Honorable Bayard T. Hainer, Associate Justice of the Supreme Court of the Territory of Oklahoma and presiding Judge of the Fourth Judicial District be and he is hereby assigned to the District Court of Logan County for the trial of said cause of The Territory of Oklahoma versus Henry Pruden; and the Clerk of the Supreme Court is hereby directed to record this order and transmit one certified copy hereof to the Clerk of the District Court of Logan County, and one copy to the Honorable Bayard T. Hainer.

Done in Chambers at the city of Guthrie, this 23d day of November, A.D. 1899.

Jno. H. Burford,
Chief Justice Supreme
Court.

SUPREME COURT PROCEEDINGS IN VACATION.

UNITED STATES OF AMERICA,) ss.
Territory of Oklahoma.)

IN THE SUPREME COURT.

Order of Assignment of Judge.

WHEREAS, It has been made to appear to me by a certified copy of the order of court that a change of Judge has been granted in the case of The Territory of Oklahoma versus J. W. Scoggins, now pending in the District Court of Logan County, and that the Honorable Jno. H. Burford, presiding Judge of the First Judicial District is not qualified to sit in said cause by reason of the bias and prejudice of said Judge,

IT IS NOW THEREFORE hereby ordered that Honorable Bayard T. Hainer, Associate Justice of the Supreme Court of the Territory of Oklahoma and presiding Judge of the Fourth Judicial District be and he is hereby assigned to the District Court of Logan County for the trial of said cause of The Territory of Oklahoma versus J. W. Scoggins; and the Clerk of the Supreme Court is hereby directed to record this order and transmit one certified copy hereof to the Clerk of the District Court of Logan County, and one copy to the Honorable Bayard T. Hainer.

Done in Chambers at the city of Guthrie, this 23d day of November, A.D. 1899.

Jno. H. Burford,
Chief Justice Supreme Court.

UNITED STATES OF AMERICA,) ss.
Territory of Oklahoma.)

IN THE SUPREME COURT.

Order of Assignment of Judge.

WHEREAS, It has been made to appear to me by a certified copy of the order of court that a change of Judge has been granted in the case of The Territory of Oklahoma versus Sherman Dykes, now pending in the District Court of Garfield County, and that the Honorable John L. McAtee, presiding Judge of the Fifth Judicial District is not qualified to sit in said cause by reason of the bias and prejudice of said Judge,

IT IS NOW THEREFORE hereby ordered that Honorable Clinton F. Irwin, Associate Justice of the Supreme Court of the Territory of Oklahoma and presiding Judge of the Second Judicial District be and he is hereby assigned to the District Court of Garfield County for the trial of said cause of the Territory of Oklahoma versus Sherman Dykes; and the Clerk of the Supreme Court is hereby directed to record this order and transmit one certified copy hereof to the Clerk of the District Court of Garfield County, and one copy to the Honorable Clinton F. Irwin.

Done in Chambers at the city of Guthrie, this 23d day of November, A.D. 1899.

Jno. H. Burford,
Chief Justice Supreme Court.

UNITED STATES OF AMERICA,) ss.
Territory of Oklahoma.)

IN THE SUPREME COURT.

Whereas, It has been made to appear to me by a certified copy of the order of the Court, that a change of Judge has been granted in the case of The Territory of Oklahoma vs Taylor Kirk, now pending in the District Court of Canadian County, in said Territory; and that the Honorable Clinton F. Irwin, presiding Judge of the Second Judicial District, is not qualified to sit in said cause, by reason of the bias and prejudice of said Judge,

It is now therefore hereby ordered, that the Honorable John L. McAtee, Associate Justice of the Supreme Court of said Territory, and presiding Judge of the Fifth Judicial District thereof, be and he is hereby assigned to the District Court of said Canadian County, for the trial of said cause of The Territory of Oklahoma vs Taylor Kirk; and

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

The Clerk of the Supreme Court is hereby directed to record this order, and transmit one certified copy thereof to the said Honorable John L. McAtee, and one copy to the Clerk of the District Court of said Canadian County.

This December 1, 1899.

Jno. H. Burford,
Chief Justice of the Supreme Court.

I N T H E S U P R E M E C O U R T O F T H E T E R R I T O R Y O F O K L A H O M A .

Burton S. Barnes and John W. Dalton,
partners as Barnes and Dalton,
Plaintiffs in error,
vs.
James W. Lynch, the Ponca City Land and
Improvement Company, et al,
Defendants in error.

O R D E R O F S U P E R S E D E A S .

Now on this 8th day of December, 1899, this cause came on to be heard, before me Bayard T. Hainer, as Associate Justice of the Supreme Court of Oklahoma, on the application of the plaintiffs in error, to extend the time for giving the supersedeas bond staying the judgment of the Supreme Court heretofore rendered in such cause.

It is hereby ordered and adjudged that the order of supersedeas heretofore made in said cause by the Hon. John H. Burford, as Chief Justice, is hereby continued in force and the time of giving bond is hereby extended until Tuesday the 12th day of December, 1899.

Witness the Hon. Bayard T. Hainer, Associate Justice, at chambers in Wichita, this 8th day of December, 1899.

Bayard T. Hainer,
Associate Justice.

I N T H E S U P R E M E C O U R T ,
T E R R I T O R Y O F O K L A H O M A ,
I N V A C A T I O N .

Whereas it having been made to appear to me as Chief Justice of the Supreme Court, that the Hon. Bayard T. Hainer, presiding Judge of the Fourth Judicial District, in the Territory of Oklahoma, will be absent from his district on official duties, and will not be able to attend the opening of the District Court of Noble County, at the December Term, 1899, It is now by me ordered that Jno. H. Burford, presiding Judge of the First Judicial District be and he is hereby assigned to the Fourth Judicial District, to act as Judge, and preside in said District, and hold the District Court of Noble County, and hear, try and determine any and all causes pending in said court, and discharge all the duties of presiding Judge in said District, during the absence of said regular Judge from the said Fourth Judicial District.

It is further ordered that the clerk transmit a certified copy of this order to the Hon. Jno. H. Burford, Judge as aforesaid, and to the clerk of said Noble County.

Done at Chambers in the city of Wichita, this 8th day of December, 1899.

Jno. H. Burford,
Chief Justice.

SUPREME COURT PROCEEDINGS IN VACATION.

UNITED STATES OF AMERICA,) : ss.
Territory of Oklahoma.)

IN THE SUPREME COURT.

Burton S. Barnes, John Dalton,)
partners as Barnes & Dalton, :
Plaintiffs in error, (:
vs. :
J. W. Lynch, The Ponca City :
Land & Improvement Company (:
a corporation, :
Defendants in error.)

Come now the plaintiffs by James B. Diggs, their attorney, and present the supersedeas bond herein heretofore ordered by the Court. And comes also the defendant J. W. Lynch, in person, and by Harper S. Cunningham, his attorney, and object to the sufficiency of said bond, and it is now in Chambers, upon agreement of said counsel for the parties, plaintiff and defendant, ordered that the hearing of the question of the sufficiency of the sureties on said bond be held before the Honorable Jno. H. Burford, Chief Justice of the Supreme Court, and presiding judge of the First Judicial District at Guthrie, on Monday next, December 18, 1939, at 2 o'clock p.m. of said day, or as soon thereafter as practicable. And stay of mandate in said cause is hereby extended until said hearing, or the further order of the Court or Judge.

Witness my hand at Guthrie, this 12th day of December, 1939.

Barbara T. Hainer,
Associate Justice Sup. Ct. Okla.

In the Supreme Court of the Territory of Oklahoma.

Burton S. Barnes, and J. W. Dalton,) :
as partners, :
Plaintiffs in error, (:
vs. :
The Ponca City Land and Improvement :
Company, et al, (:
Defendants in error. :
Supersedeas Bond.

Know all men by these presents that we B. S. Barnes, J. W. Dalton, as principals, and Geo. H. Brett, as sureties are held and firmly bound unto the defendants in error in the above entitled cause in the penal sum of fifteen hundred dollars, the same well and truly to be paid, we and ourselves, and each of us, our and each of our heirs, executors and administrators.

The condition of the above obligation is such that whereas the Supreme Court has granted a supersedeas in the above entitled cause on the application of said Barnes and Dalton, therefor, on a petition of rehearing, Now, therefore, if said application for rehearing is denied, and said order of supersedeas be set aside, and the said Barnes and Dalton shall pay to the said defendants in error, the damages sustained by the suing out of said supersedeas incurred pending the existence thereof, then this obligation to null and void, otherwise to remain in full force and effect. This obligation to null and void, if said application for rehearing shall be sustained.

WITNESS our hands and seals this the 11th day of December, 1939.

B. S. Barnes,
John W. Dalton,
Geo. H. Brett.

Territory of Oklahoma,) : ss.
Key County.)

Geo. H. Brett being duly sworn, each for himself, deposes and says that he is a resident of the Territory

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

of Oklahoma and a freeholder therein, and that as is worth the sum of Five Thousand Dollars, above all debts and liabilities, besides property exempt by law from execution.

Geo. H. Brett.

Subscribed and sworn to before me this 11th day of December, 1899.

(Seal)

C. E. Ogden,
Notary Public.

My Com. expires June 6, 1902.

Endorsed as follows:

No. 727, Barnes & Dalton vs. Ponca City Land Imp. Co. et al. Supersedeas Bond.

Offered Dec. 12, 1899, objected to and order made to examine surety Dec. 18, 1899, Benj. F. Hepler, Clerk.

Dec. 18, 1899, Bond examined and sureties, and bond approved this day in Chambers, and mandate stayed.

John H. Burford,
Chief Justice.

Filed Dec. 18, 1899,

Benj. F. Hepler, Clerk Sup. Ct.

SUPREME COURT, JANUARY, 1900, TERM--JANUARY 2, 1st, JUDICIAL DAY.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on the Second day of January, in the year of our Lord one thousand nine hundred, the Supreme Court convened in regular session for the January 1900 term, pursuant to the rules of law of the Supreme Court;

Present, the Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices Benj. F. Burwell, and Clinton F. Irwin; Benj. F. Hegler, Clerk; John W. Satterm, U. S. Attorney; Canada H. Thompson, U. S. Marshal; and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the Court for the transaction of business, the following proceedings were had, to-wit:

#870,
Ed. Ellis,
Appellant,
vs.
The United States,
Appellee.

Ordered by the Court that this cause be now submitted.

#886,
George G. Boggs,
Appellant,
vs.
The United States,
Appellee.

Ordered by the Court that this cause be now submitted on briefs; with leave to the United States to file briefs in five days; and leave to file reply briefs.

#940,
Clay Axhelm,
Appellant,
vs.
The United States,
Appellee.

Ordered by the Court that this cause be now submitted on briefs, with 10 days allowed to the United States to file briefs.

#841,
Charles Richle,
Appellant,
vs.
The Territory,
Appellee.

Ordered by the Court that this cause be now taken on motion to dismiss.

#881,
Henry Harmon,
Appellant,
vs.
The Territory of Oklahoma,
Appellee.

Ordered by the Court that this cause be now submitted on plaintiff's briefs.

S U P R E M E C O U R T, J A N U A R Y, 1900. T E R M -- J A N U A R Y 2. 1st. J U D I C I A L D A Y.

#914,

James W. Kidd,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

Ordered by the Court that this cause be now submitted on briefs.

#915,

George Grothe,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

Ordered that this cause be now taken by the Court.

#929,

W. P. Perkins,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

Ordered by the Court that this cause be passed for the present.

#936,

Ralph Rector,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

Ordered by the Court that this cause be now submitted on plaintiff's briefs.

#544,

The Territory of Oklahoma,
Appellant,
vs.

Andrew Cooper, O. A. Mitcher,
T. W. Williamson, and John Cooper,
Appellees.

Ordered by the Court that this cause be continued to next term, by agreement. Defendants given to April 1st to file briefs. Reply briefs to be filed within 30 days thereafter.

#891,

Territory ex rel Cunniff, Esq.,
Attorney General,
Appellant,
vs.

G. W. Cooper, et al, as
members of the City Council
of the City of Perry, C.T.
Appellees.

Ordered by the Court that this cause be now passed.

S U P R E M E C O U R T , J A N U A R Y , 1 9 0 0 . T E R M -- J A N U A R Y , 2 , 1 s t J U D I C I A L D A Y .

#900,
Territory ex rel
Harper S. Cunningham, Att'y Gen'l.
Appellant,
vs.

James Brown, as Co. Clerk of
Greer County, O.T.
Appellee.

Ordered by the Court that this cause be taken for examination of the record.

#901,
Territory of Oklahoma ex rel
Harper S. Cunningham, Att'y Gen'l.
Appellant,
vs.

Fred C. Tracy, County Clerk
of Beaver County,
Appellee.

Ordered by the Court that this cause be taken for examination of the record.

#320,
Brittain Smith & Company,
Appellant,
vs.

Burnham, Hanna, Manger &
Company,
Appellee.

Ordered by the Court that this cause be now submitted on plaintiff's briefs.

#602,
S. A. Moore,
Appellant,
vs.

O. H. Bevis, doing business
as the Bevis Mercantile Co.,
Appellee.

Ordered by the Court that this cause be now submitted on plaintiff's briefs.

#354,
Elmer H. Carmichael,
Appellant,
vs.

W. F. Pierce, and
O. A. Lund,
Appellees.

Ordered by the Court that this cause be now submitted on briefs.

#362,
B. J. Conley and
J. C. Caldwell,
Appellants,
vs.

H. T. Horner, and
E. W. Hill,
Appellees.

Ordered by the Court that this cause be now submitted on briefs.

#375,
The Bank of Blackwell,
Appellant,
vs.

John Dean, Assignee of
the Bank of Kildare,
Appellee.

Ordered by the Court that this cause be now submitted on briefs.

SUPREME COURT, JANUARY, 1900, TERM.--JANUARY 2, 1st, JUDICIAL DAY.

#377,
John H. McDonald,
Appellant,
vs.

Michael Brady,
Appellee.

Ordered by the Court that this cause be taken on the motion for continuance.

#378,
L. A. Tibbitts, et al,
Appellants,
vs.

H. A. Miller, et al,
Appellees.

Ordered by the Court that this cause be now submitted on briefs.

#382,
A. Morrison & Co.,
Appellant,
vs.

The Farmers and Merchants
Bank of Los Angeles,
California,
Appellee.

Ordered by the Court that this cause be now submitted on briefs.

#387,
W. C. Sims,
Appellant,
vs.

Black Dog,
Appellee.

Ordered by the Court that this cause be now submitted on plaintiff's briefs.

#390,
Henry R. Herlihy,
Appellant,
vs.

A. E. Moore and
Frank Rinehart,
Appellees.

Ordered by the Court that this cause be now submitted on briefs.

#393,
J. R. Baxter,
Appellant,
vs.

L. Haines Buxton, as Sup't
Territorial Board of Health, D.T.
Appellee.

Ordered by the Court that this cause be now taken on record.

#394,
The Long-Bell Lumber Co.,
(a corporation) Appellant,
vs.

H. B. Martin,
Appellee.

Ordered by the Court that this cause be now taken on motion to correct petition in error.

SUPREME COURT, JANUARY, 1900, TERM--JANUARY 2, 1st, JUDICIAL DAY.

#335,
School District No. 1,
Pawnee, Oklahoma Territory,
Appellant,
vs.

S. H. Hopkins, Auditor
of said Territory,
Appellee.

Ordered by the Court that this cause be set for argument of the pending demurrer for January 5, morning hour.

#336,
Samuel H. Sappington,
Appellant,
vs.

William E. Cunningham,
Appellee.

Ordered by the Court that this cause be dismissed at the cost of appellant, for failure to file briefs.

#337,
The Perry Water Light
and Ice Company (a corporation)
Appellant,
vs.

The City of Perry, J. L.
Pancost, Mayor City of Perry, et al,
Appellees.

Ordered by the Court that this cause be taken on pending motion (for jury trial).

#338,
The Alva State Bank (a corporation)
Appellant,
vs.

J. P. Renfrew, Treasurer, and
H. C. McGrath, Sheriff of
Woods Co., O.T.
Appellees.

Ordered by the Court that this cause be passed for the present.

#339,
Robert Higgins and
S. A. Higgins,
Appellant,
vs.

William Butler and
Marion Butler,
Appellees.

Ordered by the Court that this cause be now submitted on briefs.

#340,
Winred W. Yelton,
Appellant,
vs.

Mamie E. Yelton,
Appellee.

Ordered by the Court that this cause be now taken on the motion to a nolle prosequi and removed from the files.

SUPREME COURT, JANUARY, 1900, TERM.--JANUARY 2, 1st, JUDICIAL DAY.

#309,
The Board of County Commissioners
of Canadian County, O.T.
Appellant,
vs.

F. M. Hillel, Appellee.

Ordered by the Court that this cause be now passed.

#310,
J. W. Light,
Appellant,
vs.

George W. Conover,
Appellee.

Ordered by the Court that this cause be now submitted on plaintiff's briefs.

#311,
In re
J. H. Stumpff, Jr.,
Bankrupt,

Ordered by the Court that this cause be now taken on briefs of the petitioner.

#312,
George P. Endicott,
Appellant,
vs.

Herbert E. Ellis and
Sam Lee,
Appellees.

Ordered by the Court that this cause be now taken on the motion for continuance.

#313,
Sam Lee,
Appellant,
vs.

Herbert E. Ellis and
George P. Endicott,
Appellees.

Ordered by the Court that this cause be now taken on the motion for continuance.

#322,
The Phoenix Bridge Co.,
Appellant,
vs.

J. G. Street,
Appellee.

Ordered by the Court that this cause be now taken on the motion for continuance.

#324,
A. H. Schowalter, and
Martin Gerber,
Appellant,
vs.

Jacob Beard, Appellee.

Ordered by the Court that this cause be now taken on briefs.

SUPREME COURT, JANUARY, 1900, TERM--JANUARY 2, 1st JUDICIAL DAY.

#92,

Charles L. Walters,
Appellant,
vs.

John A. Ratliff,
Appellee.

Ordered by the Court that this cause be now submitted on briefs.

#931,

In re
Frank McFaster (Petition),

Ordered by the Court that this cause be now taken on the record.

#932,

Thomas H. Jenks, and
Agnes D. Jenks,
Appellants,
vs.

Hugh J. McGowan,
Appellee.

Ordered by the Court that this cause be now submitted on briefs of parties.

#933,

W. S. Pratt,
Appellant,
vs.

John A. Ratliff, Sheriff
of Kingfisher Co., O.T.
Appellee.

Ordered by the Court that this cause be now submitted on briefs of parties.

#934,

W. W. Baker,
Appellant,
vs.

Nichols & Son, and Company
(a corporation).
Appellee.

Ordered by the Court that this cause be now submitted on briefs of parties.

#935,

W. H. Dorman, as Co., Treas., of
Pottawatomie County,
Appellant,
vs.

Henry Linderman, W. S. Field,
Byron Shear, B. F. Brought, et al,
Appellees.

Ordered by the Court that this cause be now submitted on briefs of parties.

SUPREME COURT, JANUARY, 1900, TERM.-JANUARY 2, 1st, JUDICIAL DAY.

#344,
F. A. Richardson, W. C. Monroe,
Joseph Murray, Gilbert Martin
Gilbert Martin and George W.
Mallinix, Appellants,

vs.

Elisha Penny, Appellee.

Ordered by the Court that this cause be now taken on motion to dismiss, with leave to file suggestions against said motion instant; and said suggestions are now filed.

#345,
F. A. Richardson, W. C. Monroe,
S. E. Richardson, C. Crawford,
Chas. Cristoph and Chas. K. Starkey,
Appellants,

vs.

Elisha Penny, Appellee.

Ordered by the Court that this cause be now taken on motion to dismiss, with leave to file suggestions against said motion instant; and said suggestions are now filed.

#347,
J. A. Wilson, Appellant,

vs.

James H. McCormack, Appellee.

Ordered by the Court that this cause be now submitted on briefs.

#348,
J. J. Wallace, Appellant,

vs.

The Town of Norman, Appellee.

Ordered by the Court that this cause be now taken on motion to dismiss, and relax rule 6 of the Supreme Court.

#349,
Harry R. Becker, Appellant,

vs.

G. O. Canill, Appellee.

Ordered by the Court that this cause be now submitted on briefs.

#350,
Jose, T. Drury, Appellant,

vs.

The Territory of Oklahoma, Appellee.

Ordered by the Court that leave be given to the defendant to file brief to-day.

SUPREME COURT, JANUARY, 1900, TERM--JANUARY 2, 1st, JUDICIAL DAY.

#930,

James B. Hagins,
Appellant,
vs.

The Kaiser Mill Company,
(a corporation),
Appellee.

Ordered by the Court that this cause be now submitted on briefs.

#941,

John Collins and D. F. Wallace,
partners, as Collins & Wallace,
Appellants,
vs.

H. J. Green, Treasurer of Pawnee
County, D.T., and R. M. Lutter,
Sheriff of Pawnee County, D.T.,
Appellees.

Ordered by the Court that this cause, and causes 942 and 943 following, be consolidated with said cause 941, for the purpose of argument. Defendants given 3 days to file briefs.

#942,

H. L. Lasater and H. A. Noble,
partners as Lasater & Noble,
Appellants,
vs.

H. J. Green, Treasurer of Pawnee
County, D.T., and R. M. Lutter,
Sheriff of Pawnee County, D.T.,
Appellees.

Ordered by the Court that this cause be consolidated with #941, for the purpose of argument; and that defendants be given 3 days to file briefs.

#943,

Mayor William Coleman Baker,
partners, doing business as
Baker & Brothers,
Appellants,
vs.

R. M. Lutter, Sheriff, H. J. Green,
Treasurer, and the Board of
County Commissioners of Pawnee
County, D.T.,
Appellees.

Ordered by the Court that this cause be consolidated with #941, for the purpose of argument; and that defendants be given 3 days to file briefs.

#985,

W. F. Pierce, Sheriff
of County,
Appellant,
vs.

Blindfolded as defendant,
Appellee.

Come before me, attorney for the defendant in this cause, and waive their oral argument herein; and it is ordered by the Court that this cause be now taken on briefs.

SUPREME COURT, JANUARY, 1900, TERM--JANUARY 2, 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th.

#850,
Benj. M. Kirtley,
Appellant,
vs.
May Dykes,
Appellee.

Ordered by the Court that this cause be now taken on briefs; and plaintiff's counsel withdraw their application for oral argument.

In memory of Samuel I. Overstreet, late U. S. Attorney,

And now the Chief Justice suggests to the Court that arrangements be made for proper proceedings of the Court and Bar Association concerning the death of Samuel I. Overstreet, late U. S. Attorney.

After discussion by various members of the Bar, the Chief Justice suggests that the Supreme Court take action as a court, and that a committee to prepare proper resolutions should be appointed from the Territory at large to act in co-operation with the committee of the regular Bar Association; and time to be designated for the memorial services and the presentation of the reports of the committees.

Ordered that Court now adjourn to 10 o'clock tomorrow morning.

SUPREME COURT, JANUARY, 1900, TERM--JANUARY 3, 2nd JUDICIAL DAY.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on the Third day of January, in the year of our Lord one thousand nine hundred, the Supreme Court convened in regular session for the January 1900 term, pursuant to yesterday's adjournment;

Present, Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices John L. McAtee, Bayard T. Hainer, Benj. F. Burwell and Clinton F. Irwin; Benj. F. Hegler, Clerk; John W. Seathorn, U. S. Attorney; Canada H. Thompson, U. S. Marshal; and John C. Ormer, Court Crier.

Public proclamation having been duly made of the opening of the Court for the transaction of business, the following proceedings were had, to-wit:

#919,
Edward B. Justus,
Appellant,
vs.
The Territory of Oklahoma,
Appellee.

And now the Court sustains the motion to dismiss this cause.

It is ordered by the Court that this cause be and the same is now dismissed at cost of appellant.

#757,
J. G. Lockabaugh,
Appellant,
vs.
Frank H. Bell,
Appellee.

Ordered by the Court that the motion for reinstatement of this cause be denied at costs of petitioner.

#808,
Lewis Humphrey, et al,
Appellants,
vs.
Maggie Hunt,
Appellee.

And now this cause comes on for hearing by the Court upon the application of plaintiffs in error for a rehearing of the same. And the court having considered said application, and being fully advised in the premises, finds that the same should be denied.

It is now therefore hereby ordered by the Court that the application for a reinstatement and rehearing of this cause be and the same is hereby denied.

#841,
Charles Richie,
Appellant,
vs.
The Territory of Oklahoma,
Appellee.

And now this cause comes on for decision by the Court upon the motion to dismiss the appeal herein.

And the Court having duly considered said motion, and being fully advised in the premises finds that said motion should be denied, and the cause submitted.

It is therefore ordered by the Court that the motion to dismiss the appeal herein be overruled, and that this cause be now submitted.

SUPREME COURT, JANUARY, 1900, TERM--JANUARY 3, 2nd JUDICIAL DAY.

#848,
Morris Brown,
Appellant,
vs.
Laura Donnelly,
Appellee.

And now this cause comes on for hearing by the Court upon the petition for a rehearing thereof, and a motion for continuance of the same.

And the Court having duly considered said petition and motion, and being fully advised in the premises finds that the petition for rehearing should be denied, and the motion for continuance overruled.

It is therefore ordered and adjudged by the Court that the petition for rehearing of this cause be and the same is hereby denied, and the motion for continuance therein be overruled.

#894,
The Long - Bell Lumber Company,
(a corporation),
Appellant,
vs.
H. B. Martin,
Appellee.

And now this cause comes on for hearing by the Court upon the motion to amend petition in error therein, and the motion to dismiss.

And the Court having duly considered said motions, and being fully advised in the premises finds that the motion to amend said petition in error should be overruled, and the motion to dismiss said appeal should be sustained, there being no case-made or transcript in said case.

And the Court further finds that the costs should be taxed to the appellant in this cause, and the case remanded to the lower court whence it originated.

It is therefore ordered and adjudged by the Court that the appeal herein be dismissed at cost of appellant and cause remanded to the lower court.

#903,
Russell E. Gardner,
Appellant,
vs.
W. J. McCune, et al,
The Board of Education of
the City of Perry,
Appellees.

And now the Court overrules the motion to quash the writ herein, and allows 5 days for the return of writ.

#908,
Himrod W. Velton,
Appellant,
vs.
Nannie E. Velton,
Appellee.

And now the Court sustains the motion to dismiss herein.

#923,
The Phoenix Bridge Company,
Appellant,
vs.
C. F. Street,
Appellee.

And now this cause comes on for hearing by the Court, upon the motions to dismiss the same, and to allow briefs out of time. And P. O. Cassidy, of counsel for defendant in error gives notice in open court that he will file his briefs to-day.

SUPREME COURT, JANUARY, 1900. TERM--JANUARY 3, 2nd JUDICIAL YEAR.

#926,
Foster Lumber Company,
Appellant,
vs.
Aaron Robinson,
Appellee.

Ordered by the Court that this cause be now dismissed, briefs having been filed out of time.

#959,
Samuel V. Hulkey,
Appellant,
vs.
H. V. Van Patten, County
Treasurer of Grant County, O.T.
Appellee.

And now the Court announces that on amendment of the petition herein, the writ asked will be granted.

ORDER FOR SPECIAL SESSION IN WASHITA COUNTY.

It appearing to the Court that a necessity exists for a special session of the District Court of the County of Washita, and Territory of Oklahoma, for consideration of the issue of bonds of said county, it is hereby

Ordered by the Court that a special session of the District Court of the County of Washita, and Territory of Oklahoma, be and is hereby fixed for Monday, January 15, 1900, for the purpose of considering and determining the issue of bonds of and for said county.

It is further ordered, That the Clerk transmit a certified copy of this order to the Hon. Clinton E. Irwin, the presiding Judge of said Washita County District Court, and to the Clerk of said Court, at Cloud Chief.

Jno. L. Burford,
Chief Justice.

#912,
William Wilson,
Appellant,
vs.
The Territory of Oklahoma,
Appellee.

Comes now Frank Gillett of counsel for plaintiff in error and waives oral argument in this cause, and asks permission to add to his brief, additional authorities, and leave is granted, and cause submitted.

#927,
J. F. Wallace,
Appellant,
vs.
The Town of Norman,
Appellee.

And now this cause comes on for consideration by the Court upon the application of plaintiff to be granted leave to file briefs out of time, and upon the motion to dismiss the appeal herein, and the Court having considered said application and motion, finds that the motion to dismiss should be overruled, and time allowed for briefs.

It is therefore ordered and adjudged by the Court that the plaintiff be granted leave to file briefs out of time; that the defendant be allowed 10 days to file his briefs, and that the motion to dismiss be and the same is hereby overruled.

SUPREME COURT, SAN MARCO, 1900. TERM--JANUARY 3, 2nd JUDICIAL DAY.

#902,
Joseph Brury,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now by agreement of parties, oral argument is waived in this cause, and it is ordered by the Court that the same be submitted on briefs.

Counsel for plaintiff in error asks to be allowed to make certain corrections in his brief, and leave is given.

#920,
The Territory of Oklahoma,
Appellant,
vs.

T. M. Richardson, Jr.,
Appellee.

And now oral argument in this cause is waived, and it is ordered by the Court that the same be submitted on briefs with leave to defendant in error to file additional authorities.

#921,
The Territory of Oklahoma,
Appellant,
vs.

T. M. Richardson, Jr.,
Appellee.

And now oral argument in this cause is waived, and it is ordered by the Court that the same be submitted on briefs, with leave to defendant in error to file additional authorities.

#938,
A. D. Velce,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

Comes now L. N. Thurston of counsel for plaintiff in error and waives oral argument in this cause.

It is ordered by the Court that 10 days be allowed the Attorney General to file briefs herein, and that this cause be now submitted.

IN MEMORY OF SAMUEL L. OVERSTREET, LATE U. S. ATTORNEY.

And now the Court announces the following named gentlemen as the committee appointed by the Court for the Territory at large, to draft resolutions of condolence and respect concerning the death of Samuel L. Overstreet, late U. S. Attorney.

For the first district, W. P. Herod of the Logan county bar.

For the second district, Frank Gillett of the Canadian county bar.

For the third district, J. H. Woods, of the Pottawatomie county bar.

For the fourth district, James E. Diggs of the Noble county bar.

For the fifth district, J. W. Smith, of the Grant county bar.

SUPREME COURT, JANUARY, 1900, TERM.--JANUARY 3, 2nd JUDICIAL DAY.

#907,

J. W. Lawton,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now this cause is orally argued by A. J. Smith, counsel for appellant, and it is ordered by the Court that the same be now submitted.

#898,

W. W. Stovall and
I. J. Stovall, as
W. W. Stovall & Bro.,
Appellants,
vs.

Virginia G. Adair and
R. B. Adair,
Appellees.

Ordered by the Court that by agreement of parties, defendant be granted 4 days to file answer briefs herein.

Ordered that Court now adjourn to 10 o'clock to-morrow morning.

SUPREME COURT, JANUARY, 1900, TERM.—JANUARY 4, 3rd JUDICIAL DAY.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on the Fourth day of January, in the year of our Lord one thousand nine hundred, the Supreme Court convened in regular session for the January 1900 term, pursuant to yesterday's adjournment;

Present, Honorable Jno. H. Purford, Chief Justice, presiding; Associate Justices John I. McAtee, Bayard T. Hainer, Benj. W. Burwell and Clinton F. Irwin; Benj. T. Hegler, Clerk; John W. Scothorn, U. S. Attorney; Canada H. Thompson, U. S. Marshal; and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the Court for the transaction of business, the following proceedings were had, to-wit:

#948,
S. A. Akins,
Appellant,
vs.
S. A. Moore,
Appellee.

Ordered by the Court that the motion to withdraw the case-made herein for the purpose of attaching seal, be sustained, and leave granted, papers to be returned in 5 days.

#916,
T. E. McKennon,
Appellant,
vs.
Annie McKennon,
Appellee.

And now this cause comes on for consideration by the Court upon the motion to reinstate the same, and the Court finds that said motion should be sustained.

It is therefore ordered by the Court that the motion to reinstate this cause be and the same is hereby sustained, with 10 days allowed appellant to file his briefs, and 10 days thereafter to appellee to file answer briefs.

#785,
Board of County Commissioners
of Washita County, O.T.
Appellant,
vs.
Bank of Waco,
Appellee.

Ordered by the Court that this cause be now dismissed on motion of appellant, at his costs.

#784,
Board of County Commissioners
of Washita County, O.T.
Appellant,
vs.
James H. Kelso,
Appellee.

Ordered by the Court that this cause be now dismissed on motion of appellant, at his costs.

SUPREME COURT, JANUARY, 1900, TERM--JANUARY 4, 3rd JUDICIAL DAY.

#775,

Board of County Commissioners
of Washita County, O.T.
Appellant,

vs.

Gustavus De Lana,
Appellee.

Ordered by the Court that this cause be now dismissed on motion of appellant, at its costs.

#782,

Board of County Commissioners
of Washita County, O.T.
Appellant,

vs.

H. D. Young,
Appellee.

Ordered by the Court that this cause be now dismissed on motion of appellant, at its costs.

#610,

D. M. Goodrich,
Appellant,

vs.

T. Williamson and
The Oklahoma National Bank
of Oklahoma City, O.T.

Ordered by the Court that this cause be set for hearing to-morrow, January 5th, at 10 o'clock
a.m.

#944,

F. A. Richardson, W. C. Munroe,
Joseph Murray, Gilbert Martin
and George W. Mullinix,
Appellants,

vs.

Elisha Penny,
Appellee.

And now this cause comes on for consideration by the Court upon the motion to dismiss the same, and the Court having duly considered said motion, and being fully advised in the premises finds that the motion should be overruled.

It is therefore ordered and adjudged by the Court that the motion to dismiss this cause be and the same is hereby overruled; and that 10 days be allowed to defendant in error to file briefs, and cause submitted on briefs.

#945,

F. A. Richardson, W. C. Munroe,
S. E. Richardson, C. Crawford,
Chas. Cristoph and Chas. K. Starkey,
Appellant,

vs.

Elisha Penny, Appellee.

And now this cause comes on for consideration by the Court upon the motion to dismiss the same, and the Court having duly considered said motion, and being fully advised in the premises finds that the motion should be overruled.

It is therefore ordered and adjudged by the Court that the motion to dismiss this cause be and the same is hereby overruled; and that 10 days be allowed to defendant in error to file briefs, and cause submitted on briefs.

SUPREME COURT, JANUARY, 1900, TERM -- JANUARY 4, 3rd JUDICIAL DAY.

#789,
The Board of County Commissioners
of the County of D. Oklahoma Territory,
Appellant,

vs.

H. & W. Sauer,
Appellee.

Ordered by the Court that the motion herein for mandate to Canadian County be sustained, and the mandate is ordered to issue.

#866,
W. J. Wendenhall,
Appellant,

vs.

Pyron E. Cagle,
Appellee.

Ordered by the Court that the motion for continuance in this cause be now overruled, and cause submitted on briefs without oral argument.

#877,
John H. McDonald,
Appellant,

vs.

Michael Trady,
Appellee.

Ordered by the Court that the motion for continuance in this cause be now overruled, and cause submitted on briefs without oral argument.

#917,
George P. Endicott,
Appellant,

vs.

Herbert E. Ellis and
Sam Lee,
Appellees.

Ordered by the Court that the motion for continuance in this cause be now overruled, and cause submitted on briefs without oral argument.

#918,
Sam Lee,
Appellant,

vs.

Herbert E. Ellis and
George P. Endicott,
Appellees.

Ordered by the Court that the motion for continuance in this cause be overruled, and cause submitted on briefs without oral argument.

#929,
W. P. Perkins,
Appellant,

vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for consideration by the Court upon the motions to dismiss the same, and to file briefs out of time. And the Court having duly considered said motions, and being fully advised in the premises, finds that the motion to dismiss should be overruled, and the motion to file briefs out of time should be sustained.

It is therefore ordered and adjudged by the Court that the motion to dismiss this cause be and the same is now overruled, and the motion to file briefs out of time sustained, and plaintiff is allowed 20 days to file briefs with 30 days to the Territory for answer briefs, and so on is continued for the term.

SUPREME COURT, JANUARY, 1900, TERM--JANUARY 4, 3rd JUDICIAL DAY.

#670,
W. F. Wyman,
Appellant,
vs.

Virgil Herard,
Appellee.

And now this cause comes on for consideration by the Court upon the petition of plaintiff in error for a rehearing thereof. And the Court having duly considered said petition, and being fully advised in the premises finds that the same should be denied; and that said petition should be stricken from the files because of language therein contained disrespectful to the Court.

It is therefore ordered and adjudged by the Court that the petition for a rehearing of this cause be, and the same is hereby denied, and that said petition be stricken from the files for language disrespectful to the Court.

#727,
Burton S. Barnes and John Dalton,
partners, as Barnes & Dalton,
Appellants,
vs.

J. W. Lynch, et al,
Defendants.

And now this cause comes on for consideration by the Court upon the petition for rehearing thereof. And the Court having duly considered said petition, and being fully advised in the premises, finds that the same should be denied, and said petition stricken from the files because of language therein disrespectful to the Court; and that a mandate should be issued.

It is therefore ordered and adjudged by the Court that the petition for rehearing of this cause be, and the same is hereby denied; and that said petition be stricken from the files because of language therein disrespectful to the Court, and that mandate issue herein.

#959,
Samuel V. Mulkey,
Appellant,
vs.

N. V. Van Petten, Co.,
Treasurer of Grant County, O.T.
Appellee.

Ordered by the Court that a peremptory writ of mandamus be granted herein.

#891,
Territory ex rel Cunningham,
Attorney General,
Appellant,
vs.

G. W. Cooper, et al., as
members of the City Council
of the City of Perry, O.T.
Appellees.

Ordered by the Court that this cause be now stricken from the docket.

SUPERIOR COURT, KANSAS, 1900, DECEMBER--JANUARY 4, 3rd JUDICIAL DAY.

#904,
The Alva State Bank,
(a corporation)
Appellant,
vs.

J. B. Renfrew, Treasurer,
and H. J. McGrath, Sheriff
of Woods County, O.T.

Comes now the Attorney General in open court, and gives notice that he will file a notice to dismiss the appeal herein.

#797,
J. E. Petrie,
Appellant,
vs.

J. M. Coulter, as Receiver
of the Farmers' and Citizens' Bank,
Appellee.

And now oral argument is waived in this cause, and the same is taken on briefs.

#862,
Fremont Tertwell,
Appellant,
vs.

William S. Vaines,
Appellee.

And now oral argument is waived in this cause, and the same is submitted on briefs.

#866,
W. J. Wendenhall,
Appellant,
vs.

Byron E. Cagle,
Appellee.

And now oral argument is waived in this cause, and the same is submitted on briefs.

#889,
Ed. L. Dunn,
Appellant,
vs.

Annie I. Yakish, and
W. H. Yakish,
Appellees.

Come now H. J. Fearful, counsel for plaintiff in error, and J. H. Woods, counsel for defendant in error, and make oral argument in this cause, and it is now ordered by the Court that this cause be submitted on the record, oral argument and briefs therein.

#952,
Winfield National Bank of
Winfield, Kansas,
Appellant,
vs.

Bettie McWilliams,
Appellee.

Comes now J. B. Pollock, and makes oral argument in this cause, and it is now ordered by the Court that the same be taken on briefs and oral argument.

SUPREME COURT, JANUARY, 1900, TERM.--JANUARY 4, 3rd JUDICIAL DAY.

Admission of Frank L. Roy to practice.

Comes now J. C. Strang, a member of the bar of the Supreme Court, and moves the admission thereto of Frank L. Roy. And it appearing to the Court that the applicant is a person of good moral character, and skilled in the law, the Attorney's oath is administered to him, and it is ordered by the Court that on the signing of the roster of attorneys thereof, and the procurement of the proper certificate, he be admitted to practice at the bar of the Supreme Court of the Territory, and all the inferior courts thereof.

Ordered that court now adjourn to 2 o'clock p.m. of this day, at which time memorial proceedings in observance of the death of Samuel L. Overstreet, late U. S. Attorney, will be had.

2 o'clock p.m. court convened pursuant to noon adjournment. Officers present same as at morning session.

Public proclamation having been duly made of the opening of the court, the following proceedings were had, to-wit: Memorial proceedings.

The Chief Justice announces the purpose of the convening of the court to be proper observances in honor of the memory of the Hon. S. L. Overstreet, late U. S. Attorney for Oklahoma, and also a member of the bar of the Supreme Court, and of the District Court of Logan County, and called for a report of the committees heretofore appointed.

W. B. Herod, Chairman of the court committee appointed for the Territory at large, submitted with appropriate remarks, the following resolutions, to-wit:

In the Supreme Court of the Territory of Oklahoma.

January Term, A.D. 1900.

May it please the Court:

The committee appointed by your Honorable Body on account of the death of a distinguished member of the Bar of this Territory and officer of this court, respectfully submit the following:

Resolved, That the Supreme Court of the Territory of Oklahoma, has learned, with profound sorrow and regret, of the death of Samuel L. Overstreet, late U. S. District Attorney for this Territory, and member of the Bar of this Court:

Resolved, That in his death, this Court and the Territory, lose the wise counsel of an honorable and conservative, conscientious and capable public officer:

Resolved, That the business of this Court be now suspended, that deserving tribute may be paid to the high character and ability of the deceased as a public officer and private citizen:

Resolved, That a copy of these resolutions and the proceedings of this hour together with resolutions of the Franklin, Indiana, Bar, hereto attached and made a part hereof, and the action of the Logan county Bar in the appointment of Hon. H. S. Cunningham, Attorney General of the Territory, Hon. C. R. Brooks, ex-U.S. District Attorney, and Hon. John W. Seethorn, Assistant United States Attorney, as a committee to attend his funeral, be placed of record in the clerk's office of this Court:

Resolved, That the clerk of this Court be directed to forward a copy of these resolutions to the Father of the deceased at Franklin, Indiana, under the Seal of the Court:

SUPREME COURT, JANUARY, 1900, TERM--JANUARY 4, 3rd JUDICIAL DAY.

Resolved, That as a further mark of respect to the memory of the deceased, the Court, at the close of these exercises, do adjourn for the day.

Respectfully submitted,

W. B. Herod,
First District.

Frank Gillett,
Second District.

J. H. Woods,
Third District.

James B. Diggs,
Fourth District.

J. W. Smith,
Fifth District.

Committee.

The Chief Justice then announced that there was no special programme provided for the proceedings, and invited members of the Bar to make such remarks as they deemed fitting for the occasion.

Addresses in eulogy of the deceased were then made by C. R. Buckner and A. T. Huston of the Logan County Bar, John W. Scothorn, U. S. Attorney, B. S. McGuire, Assistant U. S. Attorney, H. R. Thurston of the Logan County Bar; L. P. Mosier of the Pawnee County Bar; Frank Hutto of the Payne County Bar; C. J. Horner of the Logan County Bar; James B. Diggs of the Noble County Bar; Harper S. Cunningham, Attorney General of the Territory; Joseph Wisby and R. E. Stewart of the Logan County Bar; Associate Justice John L. McAtee of the Supreme Court, and Chief Justice Jno. H. Burford.

The following resolutions of the Johnson County, Indiana Bar were also presented and directed to be spread of record, together with the first named resolutions.

Memorial of the Johnson County Bar upon the death of
SAMUEL L. OVERSTREET.

Samuel Livingston Overstreet was born at Franklin, Indiana, July 24th, 1853, and departed this life on the 13th day of November, 1899.

He was the oldest son of the Honorable Gabriel W. Overstreet of this Bar, and was educated in the law by the law firm of Overstreet and Hunter, and was admitted to this bar on the first day of our November Term 1879, and practiced his profession in the City of Franklin for several years, when he removed to the State of Kansas. Subsequently he removed to Guthrie, Oklahoma, where he has since resided and held many offices of trust and honor, being at the time of his death the United States District Attorney for Oklahoma.

We, as a bar, and those of us who knew Mr. Overstreet personally, have always held him in the highest esteem, and have taken a lively and kindly interest in his prominent career, and desiring to make an expression of our esteem and respect for him have this day met for that purpose as a bar.

Therefore be it Resolved:

First: That from our personal associations with him while a member of this bar, and our knowledge of his career since he left us; we know him to have been a lawyer gifted with a happy temperament and a fine legal mind and possessed of much learning in the law, and the highest attributes of moral character, and that he brought great credit to himself, and to his friends and profession.

Second: That we deplore his untimely death, cut down as he was in the bloom of his manhood and usefulness.

Third: That we present to the family of our departed friend, our sincere sympathy and condolence in this, their great bereavement.

SUPREME COURT, JANUARY, 1900, TERM.--JANUARY 4, 3rd JUDICIAL DAY.

Fourth: That the Clerk of this court be requested to transmit a copy of this Memorial and these resolutions to the family of our deceased brother, and that copies hereof be placed of record in the current order book of this Court, and sent to the Clerks of the local Courts, and United States District Court of the Territory of Oklahoma for record.

Under the seal of this Court November 16, 1899.

W. J. Buckingham,	)	
H. C. Barnett,	)	Committee.
Wm. A. Johnson,	)	

State of Indiana, Johnson County, ss:

I Daulton Wilson, Clerk of the Circuit Court of Johnson County, in the State of Indiana, do hereby certify that the foregoing is a true copy of the Memorial of the Johnson County Bar, upon the death of Samuel L. Overstreet, as appears of record in my office.

In testimony whereof, I hereunto subscribe my name and affix the seal of said Court, at my office in the City of Franklin, this 16th day of November, 1899.

Daulton Wilson,

(Seal)

Clerk J. C. C.

Ordered that Court now adjourn to 10 o'clock to-morrow morning.

SUPREME COURT, JANUARY, 1900. TERM.--JANUARY 5, 4th JUDICIAL DAY.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on the Fifth day of January, in the year of our Lord one thousand nine hundred, the Supreme Court convened in regular session for the January 1900 term, pursuant to yesterday's adjournment;

Present, Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justice John D. McAtes, Bayard T. Hainer, Benj. F. Burwell and Clinton F. Irwin; Benj. F. Hegler, Clerk; John W. Scothorn, U. S. Attorney; Canada H. Thompson, U. S. Marshal; and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceedings were had to-wit:

#909,

Board County Commissioners
Canadian County, O.T.
Appellant,

vs.

F. M. Hubbell,
Appellee.

Ordered by the Court that this cause be now dismissed at cost of plaintiff in error, for want of prosecution.

#789,

Board County Commissioners
D County, O.T.
Appellant,

vs.

N. and W. Sauer,
Appellee.

Order for mandate heretofore, to-wit: yesterday ordered for Canadian county in this case be, and the same is hereby revoked and set aside; it appearing that this cause was not appealed from said county.

#898,

W. W. Stovall and I. J. Stovall,
doing business in the firm name
and style of W. W. Stovall & Bro.,
Appellants,

vs.

Virginia G. Adair and H. B. Adair,
Appellees.

And now the Court overrules the motion to dismiss this cause, and oral argument is had upon the same by W. H. Griley of counsel for plaintiff; and it is ordered by the Court that the cause be now submitted on briefs and oral argument.

Admission of J. F. King, Attorney,

Comes now Frank Dale, ex-Chief Justice, and a member of the bar of this court, and moves the admission thereto of J. F. King of the Kay County Bar. And it appearing to the Court that said applicant is a person of good moral character, and skilled in the law, the attorney's oath is now administered to him, and it is

Ordered by the Court that the said J. F. King be and he is hereby admitted to practice at the bar of the Supreme Court of the Territory, and all the inferior courts thereof, on signing the roster in the Clerk's office, and procuring a certificate of said admission.

SUPREME COURT, JANUARY, 1900, TERM--JANUARY 5, 4th JUDICIAL DAY.

#916,
T. F. McKennon,
Appellant,
vs.

Annie McKennon,
Appellee.

Comes now H. E. Thurston, attorney for defendant in error, and gives notice in open court of the filing of a motion to dismiss this cause, and asks for oral argument.

#869,
B. T. Conley and J. C. Caldwell,
Appellants,
vs.

H. M. Horner and R. W. Hill,
Appellees.

Ordered by the Court that the stipulation for supplemental brief herein be allowed, and cause continued for the term.

#915,
George Grothe,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

Ordered by the Court that the order heretofore made submitting this cause be and the same is hereby vacated and set aside; and that leave be granted to file briefs as per stipulation filed, and cause continued for the term.

#895,
School District No. 1,
Pawnee, Oklahoma Territory,
Appellant,
vs.

C. W. Hopkins, Auditor
of said Territory,
Appellee.

Ordered by the Court that this cause be set for oral argument this afternoon.

(The following proceedings belong under date of January 4th, 1900.)

#727,
Burton S. Barnes and John W. Dalton,
partners as Barnes and Dalton,
Plaintiffs in error,
vs.

J. W. Lynch, Ponca City Land and
Improvement Company, a corporation,
D. C. Fryer and Chester Howe,
Defendants in error.

Now on the 4th day of January, 1900, this cause comes on further for a hearing and disposition on a petition for rehearing and reversal, filed by the plaintiffs in error, the said plaintiffs in error appearing by James B. Diggs, their attorney, and the defendants appearing by J. C. Pollock their attorney. Upon consideration of said petition for rehearing the same is stricken from the files of the court, and the judgment heretofore rendered in this cause on the 7th day of November, A.D. 1899, affirming the judgment of the lower court is in all things affirmed; to which judgment of the 7th of November, 1899, and the order and decree of the Court denying the petition for rehearing and striking the same from the files, and affirming said judgment and the judgment of the lower Court, the plaintiffs in error at the time excepted and excepts and the said exception is by the Court allowed.

SUPREME COURT, JANUARY, 1900, TERM--JANUARY 5, 4th JUDICIAL DAY.

Whereupon, plaintiffs in error in open court pray the allowance of an appeal, and a writ of error to the Supreme Court of the United States from said judgment, order and decree, and ask the Court to fix the amount of a bond to be a supersedeas bond of the judgment of said Court, both as to the appeal, and as to the writ of error; and on account of the uncertainty as to the proper procedure to take said cause to the Supreme Court of the United States for review, plaintiffs in error are in open Court allowed an appeal and writ of error as prayed for on the giving of security for costs, and a supersedeas bond to supersede said judgment pending said appeal and proceedings in error is fixed in the sum of ten thousand (\$10,000) dollars upon the execution of which the writ of error and appeal granted herein shall be served and act as a supersedeas.

Jno. H. Burford,
Chief Justice.

#727,
Burton S. Barnes, and John W. Dalton,
partners as Barnes and Dalton,
Plaintiffs in error,
vs.

J. W. Lynch, Ponca City Land and
Improvement a corporation, D. C.
Fryor and Chester Howe,
Defendants in error.

And now, to-wit: on this the 4th day of January, A.D. 1900, the above cause having come on for decision upon a petition for review and rehearing, and the Court being fully advised in the premises, it is therefore considered, ordered, and adjudged that the said petition be and the same hereby is stricken from the files of this Court, and in all things denied with costs to appellants.

And now comes James E. Diggs, Esq., counsel for the above named plaintiffs in error, and takes exceptions to the ruling of the Court, and serves notice for an appeal to the United States Supreme Court, and the said appeal to the said Supreme Court of the United States, is hereby allowed on plaintiffs in error giving security for costs. Counsel for plaintiffs in error also present a petition praying for the allowance of a writ of error intended to be urged by the above plaintiffs in error praying that a transcript of the record and proceedings and papers in which the judgment herein was rendered, duly authenticated, be sent to the Supreme Court of the United States, and that such other and proper proceedings may be had as may be proper in the premises; on consideration whereof the Court does allow the writ of error as prayed for and it is further ordered that the judgment of this court be superseded on the plaintiffs in error giving a supersedeas bond according to law in the sum of ten thousand (\$10,000) dollars.

Jno. H. Burford,
Chief Justice of the Territory
of Oklahoma.

#727,
Burton S. Barnes and John W. Dalton
partners as Barnes and Dalton,
Plaintiffs in error,
vs.

J. W. Lynch, The Ponca City Land and
Improvement Company, a corporation,
D. C. Fryor and Chester Howe,
Defendants in error.

Now, on this 4th day of January, A. D. 1900, come the plaintiffs in error by their attorneys, H. L. Martin, James E. Diggs and George S. Green, and file herein and present to the Court, their petition praying for an allowance of a writ of error, intended to be urged by said plaintiffs in error, and also file herewith their assignment of errors, and praying also that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent to the Supreme Court

SUPREME COURT, JANUARY, 1900, TERM.—JANUARY 5, 4th JUDICIAL DAY.

of the United States, and that such other and further proceedings may be had as may be proper in the premises; on consideration whereof the Court does allow the writ of error upon plaintiffs in error giving security for costs. And it is further ordered by the Court that the judgment heretofore rendered in said cause be and hereby is staid and superseded upon plaintiffs in error giving bond according to law in the sum of ten thousand (\$10,000) dollars.

Jno. H. Burford,

Chief Justice of the Territory of
Oklahoma.

#727,

Burton S. Barnes and John W. Dalton,
partners as Barnes and Dalton,
Plaintiffs in error,
vs.

J. W. Lynch, Ponca City Land and
Improvement Company a corporation,
D. C. Pryor, and Chester Howe,
Defendants in error.

Now on the 4th day of January, 1900, come the above named plaintiffs in error Burton S. Barnes and John W. Dalton, and file their petition on appeal, and their assignment of errors on appeal in this cause, and upon examination thereof, it is by the Court ordered in open court that the said appeal to the Supreme Court of the United States be, and the same is hereby allowed, on plaintiffs in error giving security for cost. It is further ordered that this appeal operate as a supersedeas upon the plaintiffs in error giving bond, in the sum of ten thousand (\$10,000) dollars, as provided by law.

Jno. H. Burford,

Chief Justice.

#905,

Fred Balouff, et al,
Appellants,
vs.

Gnan F. Griswold,
Appellee.

Come now J. C. Follock of counsel for plaintiff in error, and C. F. King of counsel for defendant in error, and make oral argument in this cause; and cause is submitted on oral arguments and briefs.

#913,

The Greenville National Bank
(a corporation) Appellant,

vs.

Evans-Snyder Buel Company,
Appellee.

Come now C. O. Flake of counsel for plaintiff in error, and S. H. Cowan and S. C. Potter of counsel for defendant in error, and make oral argument in this cause; and leave is given to file further authorities in reply thereto.

#860,

Geo. Theis, Jr.,
Appellant,
vs.

Board County Commissioners
of Washita County,
Appellee.

Ordered by the court that leave be given plaintiff in error to substitute the briefs in the case of Wheeler, et al., etc., #866, as the briefs in this case. And leave is also given plaintiff in error to amend said briefs by adding citations, as case is submitted.

COURT OF APPEALS, JANUARY, 1900, TERM--JANUARY 5, 4th JUDICIAL DAY.

#927,
J. J. Wallace,
Appellant,
vs.

The Town of Norman,
Appellee.

Comes now F. J. Kearful of counsel for plaintiff in error and makes oral argument in this cause, and the same is now submitted on record, briefs and oral argument.

#894,
The Long-Bell Lumber Company,
(a corporation)
Appellant,
vs.

H. B. Martin,
Appellee.

Come now counsel for plaintiff in error and file motion to reinstate, and for supersedeas herein.

#510,
D. M. Goodrich,
Appellant,
vs.

T. Williamson and The Oklahoma
National Bank of Oklahoma City,
Appellee.

Come now John G. Park of counsel for plaintiff in error, and R. G. Hays of counsel for defendants in error and make oral argument on the rehearing of this cause, and cause is now submitted on the oral argument, record and briefs.

#895,
School District No. 1,
Pawnee, Oklahoma Territory,
Appellant,
vs.

S. M. Hopkins, Auditor
of said Territory,
Appellee.

Come now L. P. Mosier of counsel for plaintiff in error, and Harper H. Cunningham, Attorney General for the Territory, and make oral argument on the motion to quash the alternative writ herein. And the Court having heard said argument, and duly considered said cause, and being fully advised in the premises finds that the motion to quash be sustained.

It is therefore ordered and adjudged by the Court that the motion to quash the alternative writ herein be and the same is heroby sustained, and that leave be given to issue new writ.

Ordered that court now adjourn until 9 o'clock to-morrow morning.

SUPREME COURT, JANUARY, 1900, TERM.--JANUARY 6, 5th JUDICIAL DAY.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA,

BE IT REMEMBERED, That on the Sixth day of January, in the year of our Lord one thousand nine hundred, the Supreme Court convened in regular session for the January 1900 term, pursuant to yesterday's adjournment, this being the Fifth Judicial day;

Present, Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices John L. McAtee, Bayard T. Hainer, Benj. F. Burwell and Clinton F. Irwin; Benj. F. Hegler, Clerk; John W. Scothorn, U. S. Attorney; Canada H. Thompson, U. S. Marshal; and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

ORDER FIXING TERMS OF COURT IN THE SECOND JUDICIAL DISTRICT.

Ordered by the Court :

That terms of District Court be fixed for the Second Judicial District as follows, to-wit:

For Canadian County, at El Reno, Tuesday, March 6, 1900.
For Roger Mills County, at Cheyenne, Tuesday, April 3, 1900.
For Custer County, at Arapahoe, Friday, April 13, 1900.
For Washita County, at Cloud Chief, Friday, April 27, 1900.
For Kingfisher County, at Kingfisher, Thursday, May 10, 1900.

It is further ordered by the Court, that any and all orders heretofore made in conflict herewith, be and the same are hereby vacated.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order to the Honorable Clinton F. Irwin, presiding Judge of said Second Judicial District, and to each of the District Courts of the Territory, and at Pawhuska, and to the United States Attorney, and United States Marshal.

Jno. H. Burford,
Chief Justice.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

#931,

In re
Frank McMaster (Petition)

And now this matter comes on for consideration by the Court upon the petition herein. And the Court having duly considered the same, and being fully advised in the premises, finds that the petition should be granted, and the former judgment of the Supreme Court in this cause vacated and set aside.

Opinion by Irwin, J.

#934,
Spencer E. Sanders,
Appellant,
vs.

The Chicago, Rock Island and
Pacific Ry., Company,
Appellee.

And now oral argument is waived in this cause, and the same is submitted on record and briefs.

S U P R E M E C O U R T, J A N U A R Y, 1900, T E R M. -- J A N U A R Y 6, 5 t h J U D I C I A L D A Y.

#935,

F. A. Richardson and
S. E. Richardson,
Appellants,
vs.

Lena Fellner and
Elisha Penny,
Appellee.

Ordered by the Court that this cause be now taken on briefs.

#941,

John Collins and D. F. Wallace,
partners, as Collins & Wallace,
Appellants,
vs.

N. J. Green, Treasurer of Pawnee County,
O.T., and J. M. Rutter, Sheriff of
Pawnee County, O.T.,
Appellees.

Ordered by the Court that this cause be consolidated for argument with numbers 942 and 943,
and set for hearing January 8th, at 9 o'clock a.m.

#942,

Ed. C. Lasater and G. A. Noble,
partners as Lasater & Noble,
Appellants,
vs.

N. J. Green, Treasurer of Pawnee
County, O.T., and J. M. Rutter,
Sheriff of Pawnee County, O.T.
Appellees.

Ordered by the Court that this cause be consolidated for argument with 941 and 943, and set
for hearing January 8th at 9 o'clock a.m.

#943,

Mayer Halff and Solomon Halff,
partners doing business as
Halff & Brother,
Appellants,
vs.

J. M. Rutter, Sheriff,
N. J. Green, Treasurer,
and the Board of County
Commissioners of Pawnee County, O.T.
Appellees.

Ordered by the Court that this cause be consolidated for argument with numbers 941 and 942,
and set for hearing January 8th at 9 o'clock a.m.

ORDER FIXING SPECIAL TERM FOR KINGFISHER COUNTY.

It appearing to the Court that a necessity exists for a special term of the Kingfisher County District
Court, it is hereby

Ordered by the Court: That a special term of the District Court of the County of Kingfisher, and Terri-
tory of Oklahoma, be held at Kingfisher, in said County, for the hearing of the cause of Cater versus Chapman,
on Wednesday, January 17, 1900.

It is further ordered, That the Clerk transmit a certified copy of this order to the Honorable Clinton F.
Irwin, the presiding Judge of said District Court, and to the Clerk of said District Court, at Kingfisher.

Jno. H. Burford,
Chief Justice.

Attest:

Benj. F. Hogler,
Clerk Supreme Court.

SUPREME COURT, JANUARY, 1900, TERM.--JANUARY 6, 5th JUDICIAL DAY.

Order to pay Court Crier,

Ordered by the Court that the U. S. Marshal be directed to pay John C. Orrer, Court Crier, for 5 days' services as such crier, to-wit: January 2, 3, 4, 5, and 6, 1900, and that the Clerk certify a copy of this order to said Marshal.

ORDER FIXING TERMS OF COURT FOR THE FOURTH JUDICIAL DISTRICT.

Ordered by the Court:

That terms of District Court be fixed for the Fourth Judicial District, as follows, to-wit:

For Kay County, at Newkirk, Monday, March 5, 1900.
For Pawhuska, Osage Nation, at Pawhuska, Tuesday, April 3, 1900.
For Pawnee County, at Pawnee, Tuesday, April 10, 1900.
For Noble County, at Perry, May 1, 1900.

It is further ordered by the Court, That any and all orders heretofore made in conflict herewith, be and the same are hereby vacated.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order to the Honorable Bayard T. Hainer, presiding Judge of said Fourth Judicial District, and to each of the District Courts of the Territory, and to the United States Attorney, and United States Marshal.

Jno. H. Burford,

Chief Justice.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

ORDER FIXING TERMS OF COURT FOR THE FIFTH JUDICIAL DISTRICT.

Ordered by the Court:

That terms of District Court be fixed for the Fifth Judicial District, as follows, to-wit:

For Garfield County, at Enid, February 19, 1900.
For Woods County, at Alva, March 19, 1900.
For Day County, at Grand, April 9, 1900.
For Dewey County, at Taloga, April 19, 1900.
For Blaine County, at Watonga, April 30, 1900.
For Grant County, at Pond Creek, May 10, 1900.

It is further ordered by the Court, That any and all orders heretofore made in conflict herewith, be and the same are hereby vacated.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order to the Honorable John L. McAtee, presiding Judge of said Fifth Judicial District, and to each of the District Courts of the Territory, and to the United States Attorney, and United States Marshal.

Jno. H. Burford,

Chief Justice.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

Ordered that court now adjourn to next Monday morning, January 6th, 1900,
at 10 o'clock a.m.

S U P R E M E C O U R T , J A N U A R Y , 1900, T E R M . -- J A N U A R Y 8 , 6 t h J U D I C I A L D A Y .

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA,

BE IT REMEMBERED, That on the Eighth day of January, in the year of our Lord one thousand and nine hundred, the Supreme Court convened in regular session for the January 1900 term, pursuant to adjournment of January Sixth, this being the Sixth Judicial day;

Present, Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices John L. McAtee, Bayard T. Hainer, Benj. F. Burwell and Clinton F. Irwin; Benj. F. Hegler, Clerk; John W. Scothorn, U. S. Attorney; Canada H. Thompson, U. S. Marshal; and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#886,
George G. Boggs,
Appellant,
vs.
The United States,
Appellee.

Ordered by the Court that the defendant be permitted to file briefs in this cause.

#893,
J. B. Beaver,
Appellant,
vs.
L. Haines Buxton, as
Superintendent Ter.
Board of Health, O.T.
Appellee.

Ordered by the Court that this cause be now submitted.

Admission of J. D. F. Jennings,

Comes now L. G. Pitman, a member of the bar of this Court, and of the Pottawatomie County Bar, and moves the admission of J. D. F. Jennings to practice at the bar of the Supreme Court.

And it appearing to the Court that said applicant is a person of good moral character, and skilled in the law, the Attorney's oath is administered to him, and it is

Ordered by the Court that J. D. F. Jennings, do and he is hereby admitted to practice at the bar of the Supreme Court of the Territory, and all the inferior courts thereof.

#941,
John Collins and
D. M. Wallace, partners, as
Collins & Wallace,
Appellants,
vs.
N. J. Green, Treasurer of
Pawnee County, O.T., and
J. M. Rutter, Sheriff of
Pawnee County, O.T.
Appellee.

And now this cause having been previously consolidated for the purpose of argument, with causes numbered 942 and 943, comes on for hearing by the court. And oral argument is made by Frank Dale of counsel for plaintiffs in error, and Horace Speed of counsel for defendants in error.

And counsel for plaintiffs in error asks leave to file suggestions touching defendants authorities, and leave is granted. And Horace Speed for defendants in error is allowed to file printed briefs.

SUPREME COURT, JANUARY, 1900, TERM.--JANUARY 8, 6th JUDICIAL DAY.

#942,

Ed. C. Lasater and G. A. Noble,
partners as Lasater & Noble,
Appellants,
vs.

H. J. Green, Treasurer of
Pawnee County, O.T., and
J. M. Rutter, Sheriff
of Pawnee County, O.T.
Appellees.

And now this cause having been previously consolidated for the purpose of argument with causes numbered 941 and 943, comes on for hearing by the Court. And oral argument is made by Frank Dale of counsel for plaintiffs in error, and Horace Speed of counsel for defendants in error.

And counsel for plaintiffs in error asks leave to file suggestions touching defendants authorities, and leave is granted. And Horace Speed counsel for defendants in error is allowed to file printed briefs.

#943,

Mayer Halff and Solomon Halff,
partners doing business as
Halff & Brother,
Appellants,
vs.

J. M. Rutter, Sheriff,
H. J. Green, Treasurer, and the
Board of County Commissioners of
Pawnee County, O.T.
Appellees.

And now this cause having been previously consolidated for the purpose of argument with causes numbered 941 and 942, comes on for hearing by the Court. And oral argument is made by Frank Dale of counsel for plaintiffs in error, and Horace Speed of counsel for defendants in error.

And counsel for plaintiffs in error asks leave to file suggestions touching defendants authorities, and leave is granted. And Horace Speed, counsel for defendants in error is allowed to file printed briefs.

Order to pay Court Crier,

Ordered by the Court that the U. S. Marshal be directed to pay John C. Orner, Court Crier, for one day's services as such crier, to-wit: January 8, 1900, and that the Clerk certify a copy of this order to said Marshal.

#610,

D. M. Goodrich,
Appellant,
vs.

T. Williamson and The
Oklahoma National National
Bank of Oklahoma City,
Appellees.

And now on motion of plaintiff, leave is granted to file supplemental briefs.

ORDER FIXING TERMS OF COURT FOR THE THIRD JUDICIAL DISTRICT.

Ordered by the Court:

That terms of District Court be fixed for the Third Judicial District, as follows, to-wit:

For Oklahoma County, at Oklahoma City, Monday, February 12, 1900.
For Pottawatomie County, at Tecumseh, Monday, March 26th, 1900.
For Cleveland County, at Norman, Thursday, May 10th, 1900.

It is further ordered by the Court, That any and all orders heretofore made in conflict herewith, be and the same are hereby vacated.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order to each

SUPREME COURT, JANUARY, 1900, TERM--JANUARY 8, 6th JUDICIAL DAY.

of the District Courts of the Territory, and to the United States Attorney, and United States Marshal.

Jno. H. Burford,

Chief Justice.

Attest:

Benj. F. Hegler,

Clerk Supreme Court.

ORDER FIXING SPECIAL TERM FOR OKLAHOMA COUNTY.

It appearing to the Court that a necessity exists for a special term of the Oklahoma County District Court, it is hereby

Ordered by the Court: That a special term of the District Court of the County of Oklahoma, and Territory of Oklahoma, be held at Oklahoma City, in said County, on January 11th, 1900, for the transaction of general business.

It is further ordered: That the Clerk transmit a certified copy of this order to the Honorable Benj. F. Burwell, the presiding Judge of said District Court, and to the Clerk of said District Court, at Oklahoma City.

Jno. H. Burford,

Chief Justice.

Attest:

Benj. F. Hegler,

Clerk Supreme Court.

(The following below, in proceedings of January 6th, 1900.)

AMENDMENT OF RULES 14 and 19.

Ordered that rule 14 be and it is hereby amended to read as follows:

XIV. Counsel of record in any cause may at all times have free access to all files in the office of the Clerk of the Court, but no files shall be taken from the office of the Clerk except upon the written application of an attorney of record in the cause, and all papers so taken must be receipted for at the time the same are received, and must, in all instances, be returned within a period of ten days from the time when they are received by counsel. But the Clerk shall, prior to the time any papers are removed, make at the expense of the party applying, copies of all records removed from the office of said Clerk. A failure to comply with this rule shall subject the party so in default to a proceeding for contempt; but no files shall be taken from the office of the Clerk during the session of the Supreme Court, and no original opinion shall be taken from the office of the Clerk at any time. When a copy of an opinion is required by the Court or one of the Judges, the Clerk shall make and furnish such copy and tax the costs thereof to the losing party.

Ordered that Rule 19 be amended to read as follows:

XIX. Application for a rehearing in any cause shall be made by petition to the Court, signed by counsel, briefly stating the grounds for a rehearing and the authority relied on in support thereof. An application for a rehearing of any cause shall be by petition, signed by counsel, particularly setting forth the grounds thereof, and showing either that some question decisive of the case and duly submitted by counsel has been overlooked by the Court, or that the decision is in conflict with an express statute or controlling decision, to which the attention of the Court was not called, either in brief or oral argument, or which has

SUPREME COURT, JANUARY, 1900, TERM--JANUARY 8, 6th JUDICIAL DAY.

been overlooked by the Court, and the question, statute or decision, so overlooked must be distinctly and particularly set forth in the petition. Such petition must be filed within twenty days from date of decision, and a copy thereof must be served on the opposite party. No oral argument will be allowed on an application for rehearing, but if such application is granted, the cause shall be assigned for rehearing, and the Clerk shall notify both parties or their counsel of the time when such rehearing will be had, and such time may be given for argument or brief as the court shall allow.

Ordered that court now adjourn until February 5, 1900.

SUPREME COURT, JANUARY, 1900, TERM.--FEBRUARY 5th, 7th, JUDICIAL DAY.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA,

BE IT REMEMBERED, That on the Fifth day of February, in the year of our Lord one thousand and nine hundred, the Supreme Court convened in regular session for the January 1900 term, pursuant to adjournment of January Eighth, this being the Seventh Judicial day;

Present, Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices Bayard T. Hainer, and Clinton F. Irwin; Benj. F. Heiler, Clerk; Horace Speed, U. S. Attorney; Canada H. Thompson, U. S. Marshal; and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

Admission of Vene Bloomer to practice,

And on the call for motions, comes now W. B. Herod, a member of the bar of this court, and moves the admission of Vene Bloomer to practice therein. And it appearing to the Court that applicant is a person of good moral character, and skilled in the law, the Attorney's oath is now administered to him, and it is by the Court

Ordered that Vene Bloomer be and he is hereby admitted to practice in the Supreme Court of the Territory, and all the inferior courts thereof.

#962,
Taylor Kirk,
Appellant,
vs.
The Territory of Oklahoma,
Appellee.

Comes now R. B. Forrest of counsel for plaintiff in error. And the Court announces that his appeal and application herein are taken under consideration by the Court.

#960,
William Watkins,
Appellant,
vs.
The United States,
Appellee.

Comes now John W. Seethorn, Assistant U. S. Attorney, and in open court gives notice of his filing of the motion to dismiss the petition in error herein. And the Clerk is ordered to give the Attorneys for plaintiff in error, notice of this proceeding.

#919,
Edward B. Justus,
Appellant,
vs.
The Territory of Oklahoma,
Appellee.

Comes now H. H. Thurston, counsel for plaintiff in error, and asks of the Court permission to make a brief oral argument on his written application heretofore filed herein, for the reinstatement of this cause.

SUPREME COURT, JANUARY, 1900. TERM--FEBRUARY 5, 7th, JUDICIAL DAY.

#894,
The Long-Bell Lumber Co.,
(a corporation) Appellant,
vs.

H. B. Martin,
Appellee.

Comes now H. G. Johnston of counsel for plaintiff in error, and gives the Court notice of the filing of his motion this day for permission to withdraw the case-made herein. And leave is granted.

#903,
Russell E. Gardner,
Appellant,
vs.

W. C. McDune, et al,
The Board of Education of
the city of Perry,
Appellees.

Comes now Marshall Fulton of counsel for plaintiff in error, and asks of the Court permission to file an application to amend the alternative writ herein. And leave is granted.

Ordered that Court now adjourn until 10 o'clock to-morrow morning.

S U P R E M E C O U R T, J A N U A R Y, 1900, T E R M.--F E B R U A R Y 6, 8th, J U D I C I A L D A Y.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA,

BE IT REMEMBERED, That on the Sixth day of February, in the year of our Lord one thousand and nine hundred, the Supreme Court convened in regular session for the January 1900 term, pursuant to yesterday's adjournment, this being the Eighth Judicial day;

Present, Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin; Benj. F. Hagler, Clerk; Horace Speed, U. S. Attorney; Canada H. Thompson, U. S. Marshal; and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

Territory of Oklahoma,

In the Supreme Court,

January Term, A.D. 1900.

Taylor Kirk,	)	
plaintiff in error,	:	
vs.	:	O R D E R.
	:	
The Territory of Oklahoma,	)	
Defendant in error,	:	

Now on this 6th day of February, 1900, the same being the 8th Judicial day of the January, 1900, Term of the Supreme Court of Oklahoma, the court finding upon its docket the said above entitled cause, and that the petition in error therein was filed since the convening of said Term of court on the 23rd day of January, 1900, and it being the duty of the Court, under the laws of the Territory of Oklahoma, to consider said cause at the present term of this court, now it is hereby

Ordered, that said cause be set for oral argument on Friday, the 8th day of February, 1900.

It is further ordered, that the execution of the judgment of the District Court in and for Canadian County, Oklahoma, in the case of the Territory of Oklahoma vs. Taylor Kirk, rendered on the 13th day of December, 1899, wherein the said Taylor Kirk was adjudged guilty of the crime of murder, and was thereon sentenced to be hanged for said crime on the 3th day of February, 1900, be and the same is hereby suspended, pending the review of said cause in this action in this court, until the final determination of said cause in this court, or until the further order of this court.

It is further ordered, pursuant to the Statutes of Oklahoma, in such cases made and provided, that the Sheriff of Canadian County, Oklahoma, on the receipt of this order, do convey the said Taylor Kirk to the Territorial Prison of Oklahoma at Lansing, in the state of Kansas, and that he there deliver said Taylor Kirk to the warden of said Penitentiary to be confined and retained by him, until such time as this court shall make a further order herein, after having duly considered the said appeal pending in this court.

It is further ordered that the Clerk transmit certified copies of this order to the said Sheriff of said Canadian County, which shall be his sufficient authority for the removal of said Taylor Kirk from the county jail of Canadian County, Oklahoma, to the said Territorial prison, and shall also be a sufficient authority for his acceptance and detention by the said warden of said Territorial prison, until further order of this court.

Jno. H. Burford,

Chief Justice.

SUPREME COURT, JANUARY, 1900, T.H.M.--FEBRUARY 6, 8th, JUDICIAL DAY.

In re

Horace Speed, U. S. Attorney,

Comes now Horace Speed, U. S. Attorney, and in open court presents his commission as said Attorney, together with his oath of office as said Attorney, and it is now

Ordered by the Court that the Clerk place said commission and oath of office of record.

Ordered that court now adjourn until 10 o'clock to-morrow morning.

SUPREME COURT, JANUARY, 1900, TERM.--FEBRUARY 6, 8th JUDICIAL DAY.

Commission and oath of office of Horace Speed, United States Attorney.

WILLIAM MCKINLEY,

PRESIDENT OF THE UNITED STATES OF AMERICA,

To all who shall see these presents greeting:

Know ye, That, reposing special trust and confidence in the Integrity, Ability and Learning of Horace Speed of Oklahoma, I have nominated, and, by and with the advice and consent of the Senate, do appoint him Attorney of the United States, in and for the Territory of Oklahoma, and do authorize and empower him to execute and fulfil the duties of that Office according to Law, and to have and to hold the said Office with all the powers, privileges, and emoluments to the same of right appertaining, unto him, the said Horace Speed, for the term of four years from the date hereof subject to the conditions prescribed by law.

In testimony whereof, I have caused these Letters to be made Patent, and the Seal of the Department of Justice to be hereunto affixed.

Given under my Hand, at the City of Washington, the 17th day of January, in the year of our Lord one thousand nine hundred, and of the Independence of the United States of America the one hundred and twenty-fourth.

By the President William McKinley.

(S E A L)

John W. Griggs,
Attorney General.

Territory of Oklahoma,) ss.
Logan County.)

Horace Speed being duly sworn upon his oath says that he will faithfully and to the best of his ability, discharge the duties of United States Attorney for the Territory of Oklahoma, under the commission of the President, dated January 17th, 1900.

Horace Speed.

Subscribed and sworn to before me this 27th day of January, 1900.

Jno. H. Burford,
Chief Justice.

Filed January 27, 1900,
Benj. F. Hegler,
Clerk Sup. Ct.

S U P R E M E C O U R T, J A N U A R Y, 1900, T E R M.--F E B R U A R Y 7, 9th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA,

BE IT REMEMBERED, That on the Seventh day of February, in the year of our Lord one thousand and nine hundred, the Supreme Court convened in regular session for the January 1900 term, pursuant to adjournment of February Sixth, this being the Ninth Judicial day;

Present, Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin; Benj. F. Hegler, Clerk; Horace Speed, U.S. Attorney; Canada H. Thompson, U. S. Marshal; and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#893,

J. B. Beaver,
Appellant,
vs.

L. Haines Buxton, as Superintendent
of the Territorial Board of Health
of the Territory of Oklahoma,
Appellee.

Ordered by the Court that this cause be dismissed for failure to prosecute the same.

#912,

William Wilson,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court should be reversed, and this cause remanded for a new trial thereof.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby reversed at the cost of Blaine County, and remanded thereto for a new trial.

Opinion by Hainer, J.

#938,

A. P. Niece,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court herein should be reversed and cause remanded.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be now reversed at cost of Logan County, and cause remanded to said lower court.

Opinion by Hainer, J.

#682,

The Board of County Commissioners
of the County of D.
Appellant,
vs.

F. E. Gillett,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds

S U P R E M E C O U R T, J A N U A R Y 7, 1900, T E R M.--F E B R U A R Y 7, 9th J U D I C I A L D A Y.

that the judgment of the lower court herein should be reversed and cause remanded.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be now reversed, and cause remanded to said lower court.

Opinion by Hainer, J.

#860,
George Theis, Jr.,
Appellant,
vs.
Board of County Commissioners
of the County of Washita,
Appellee.

And now this cause comes on for final decision by the Court upon the records and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court should be reversed, and this cause remanded for a new trial thereof.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be now reversed at cost of Washita County, and remanded thereto for a new trial.

Opinion by Hainer, J.

#852,
Winfield National Bank
of Winfield, Kansas,
Appellant,
vs.
Bettie McWilliams,
Appellee.

And now this cause comes on for final decision by the Court upon the records and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court should be reversed and cause remanded.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be now reversed at cost of defendant in error, and cause remanded to said lower court.

Opinion by Burwell, J.

#940,
Clay Axhelm,
Appellant,
vs.
The United States of America,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be reversed and cause remanded to the lower court, at the cost of the United States, for a new trial.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby reversed at the cost of the United States; and that this cause be remanded to the District Court whence it originated for a new trial thereof.

Opinion by Burwell, J.

SUPREME COURT, JANUARY, 1900, TERM.--FEBRUARY 7, 9th JUDICIAL DAY.

#913,
The Greenville National Bank
(a corporation) Appellant,

vs.

Evans-Snider-Buel Company
and J.R. Stevens,
Appellees.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein.

And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be reversed and remanded at costs of defendant in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby reversed at cost of defendants in error.

Opinion by Burwell, J.

#936,
Ralph Rector,
Appellant,

vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be reversed and remanded at costs of Woods County.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby reversed at cost of Woods County.

Opinion by Irwin, J.

#927,
J. J. Wallace,
Appellant,

vs.

The Town of Norman,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiff in error.

Opinion by Irwin, J.

#866,
W. J. Mendenhall,
Appellant,

vs.

Byron E. Cagle,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiff in error.

Opinion by Irwin, J.

SUPREME COURT, JANUARY, 1900, TERM.--FEBRUARY 7, 9th JUDICIAL DAY.

#917,
George P. Endicott,
Appellant,
vs.

Herbert E. Ellis and
Sam Lee,
Appellees.

And now this cause comes on for final decision upon the record and briefs submitted therein.
And the Court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court should be affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby affirmed at cost of plaintiff in error.

Opinion by Irwin, J.

#918,
Sam Lee,
Appellant,
vs.

Herbert E. Ellis and
George P. Endicott,
Appellees.

And now this cause comes on for final decision upon the record and briefs submitted therein.
And the Court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court should be affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby affirmed at cost of plaintiff in error.

Opinion by Irwin, J.

#554,
The Ranney-Alton Mercantile
Company, Appellant,
vs.

T. C. Hanes and
J. W. Johnston,
Appellees.

And now this cause comes on for final decision upon the record and briefs submitted therein.
And the Court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court should be reversed and remanded at cost of defendant in error.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby reversed and remanded to said lower court at cost of defendant in error.

Opinion by Irwin, J.

#881,
Henry Harmon,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for final decision upon the record and briefs submitted therein.
And the Court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court should be affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that ~~that~~ this cause be and the same is hereby affirmed at cost of plaintiff in error.

Opinion by Irwin, J.

S U P R E M E C O U R T, J A N U A R Y, 1900, T E R M.--F E B R U A R Y 7, 9th J U D I C I A L D A Y.

#946,
W. H. McCormick,
Appellant,
vs.
Thomas L. Bonfils,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court herein should be affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby affirmed at cost of plaintiff in error.

Opinion by Irwin, J.

In re,

Order Approving Marshal's Account:

District of Oklahoma, ss:

In the Supreme Court of the Territory of Oklahoma sitting with the powers of a United States District and Circuit Court, at a term thereof begun and held at Guthrie, on the 2nd day of January, A.D. 1900. Present: the Honorable Jno. H. Burford, Chief Justice, and Associate Justices B. F. Burwell; C. F. Irwin and Bayard T. Hainer, the following order was made and entered of record, to-wit:

WHEREAS, Canada H. Thompson, United States Marshal, has rendered to this Court an account of his disbursements for Pay of Bailiffs, etc., incurred during the period from October 1st, 1899 to Dec. 31st, 1899, of the United States Courts, with the vouchers and items thereof, and in presence of Horace Speed, United States Attorney, has proved, on oath, to the satisfaction of the Court, that the services therein charged have been actually and necessarily performed as therein stated, and that the disbursements charged have been fully paid in lawful money; and whereas said charges appear to be just and according to law -

It is hereby ordered that the said account, amounting to Thirty-two dollars and no cents, be and the same is hereby approved.

Jno. H. Burford
Chief Justice.

District of Oklahoma, ss:

In the Supreme Court of the Territory of Oklahoma sitting with the powers of a United States District and Circuit Court at a term thereof begun and held at Guthrie, Oklahoma, on the 2nd day of January. Present: the Honorable Jno. H. Burford, Chief Justice, and Associate Justices Bayard T. Hainer, B.F. Burwell and C. F. Irwin, the following order was made and entered of record, to-wit:

Whereas, Canada H. Thompson, United States Marshal, has rendered to this Court an account of his disbursements from the appropriation for salaries, fees, and expenses of marshals, during the period from April 1st to June 30th, 1899, with the vouchers and items thereof, and in presence of Horace Speed United States Attorney, has proved, on oath, to the satisfaction of the Court, that the disbursements charged have been fully paid in lawful money; and whereas said charges appear to be just and according to law -

It is hereby ordered that the said account, amounting to Five hundred nineteen dollars and thirteen cents, be and the same is hereby approved.

Jno. H. Burford,
Chief Justice.

SUPREME COURT, JANUARY, 1900, TERM.--FEBRUARY 7, 9th JUDICIAL DAY.

District of Oklahoma, ss:

In the Supreme Court of the Territory of Oklahoma sitting with the powers of a United States District Court, at a term thereof begun and held at Guthrie, Oklahoma, on the 2nd day of January 1900; Present: the Honorable Jno. H. Burford, Chief Justice, and Associate Justices Bayard T. Hainer, B. F. Burwell and Clinton F. Irwin, the following order was made and entered of record, to-wit:

Whereas, Canada H. Thompson, United States Marshal, has rendered to this Court an account of his disbursements from the appropriation for salaries, fees, and expenses of marshals, during the period from October 1st to December 31st, 1899, with the vouchers and items thereof, and in presence of Horace Speed United States Attorney, has proved, on oath, to the satisfaction of the Court, that the disbursements charged have been fully paid in lawful money; and whereas said charges appear to be just and according to law -

It is hereby ordered that the said account, amounting to Six hundred and seventeen dollars and ninety-eight cents, be and the same is hereby approved.

Jno. H. Burford,
Chief Justice.

District of Oklahoma, ss:

In the Supreme Court of the Territory of Oklahoma sitting with the powers of a United States District and Circuit Court, at a term thereof begun and held at Guthrie, on the 2nd day of January, A.D. 1900; Present: the Honorable Jno. H. Burford, Chief Justice, and Associate Justices Bayard T. Hainer, B. F. Burwell and C. F. Irwin, the following order was made and entered of record, to-wit:

Whereas, Canada H. Thompson, United States Marshal, has rendered to this Court an account of his disbursements for Fees of Jurors in attendance upon the United States Courts during the period from October 1st, 1899 to December 31st, 1899, with the vouchers and items thereof, and in presence of Horace Speed, United States Attorney, has proved, on oath, to the satisfaction of the Court, that the disbursements charged have been fully paid in lawful money; and whereas said charges appear to be just and according to law -

It is hereby ordered that the said account, amounting to Four hundred Seventy-two dollars and seventy cents, be and the same is hereby approved.

Jno. H. Burford,
Chief Justice.

District of Oklahoma, ss:

In the Supreme Court of Oklahoma Territory sitting with the powers of a United States District and Circuit Court, at a term thereof begun and held at Guthrie, Oklahoma, on the 2nd day of January, A.D. 1900; Present: the Honorable Jno. H. Burford, Chief Justice, and Associate Justices Bayard T. Hainer, B. F. Burwell and Clinton F. Irwin, the following order was made and entered of record, to-wit:

Whereas, Canada H. Thompson, United States Marshal, has rendered to this Court an account of his disbursements for Fees of Witnesses in attendance upon the United States Courts during the period from October 1st, 1899 to December 31st, 1899, with the vouchers and items thereof, and in presence of Horace Speed United States Attorney, has proved, on oath, to the satisfaction of the Court, that the disbursements charged have been fully paid in lawful money; and whereas said charges appear to be just and according to law -

It is hereby ordered that the said account, amounting to Four dollars and fifty cents, be and the same is hereby approved.

Jno. H. Burford,
Chief Justice.

SUPREME COURT, JANUARY, 1900, TERM.--FEBRUARY 7, 9th JUDICIAL DAY.

District of Oklahoma, ss:

In the Supreme Court of the Territory of Oklahoma sitting with the powers of a United States District and Circuit Court, at a term thereof begun and held at Guthrie, on the 2nd day of January, A.D. 1900,
Present: the Honorable Jno. H. Burford, Chief Justice, and Associate Justices Bayard T. Hainer, B. F. Burwell and C. F. Irwin, the following order was made and entered of record, to-wit:

Whereas, Canada H. Thompson, United States Marshal, has rendered to this Court an account of his Disbursements for Support of Prisoners from the first day of October, 1899 to the 31st day of December, 1899, with the vouchers and items thereof, and in presence of Horace Speed United States Attorney, has proved, on oath, to the satisfaction of the Court, that the disbursements charged have been fully paid in lawful money; and whereas said charges appear to be just and according to law -

It is hereby ordered that the said account, amounting to Eight hundred seventy-one dollars and seventy-five cents, be and the same is hereby approved.

Jno. H. Burford,
Chief Justice.

Ordered that Court now adjourn until 10 o'clock to-morrow morning.

S U P R E M E C O U R T, J A N U A R Y, 1900, T E R M.--F E B R U A R Y 8, 10th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA,

BE IT REMEMBERED, That on the Eighth day of February, in the year of our Lord one thousand and nine hundred, the Supreme Court convened in regular session for the January 1900 term, pursuant to yesterday's adjournment, this being the 10th Judicial day;

Present, Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices, Jno. L. McAtee, Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin; Benj. F. Hegler, Clerk; Horace Speed, U.S. Attorney; Canada H. Thompson, U. S. Marshal; and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#861,
John W. Archer and
Robert Crawford,
Appellants,
vs.

The United States of
America, Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be reversed and cause remanded.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be now reversed at cost of defendant in error, and cause remanded to said lower court.

Opinion by Burford, C.J.

#883,
A. Morrison & Company,
Appellants,
vs.

The Farmers and Merchants
Bank of Los Angeles, Cal.
Appellee.

And now this cause comes on for final decision upon the record and briefs submitted therein. And the Court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court should be affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that this cause be and is hereby affirmed at cost of plaintiff in error.

Opinion by Burford, C.J.

#905,
Fred Balduff and Mrs. Fred Balduff,
Appellants,
Vs.

Onan F. Griswold,
Appellee.

And now this cause comes on for final decision upon the record and briefs submitted therein. And the Court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court should be affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby affirmed at cost of plaintiff in error.

Opinion by Burford, C.J.

SUPREME COURT, JANUARY, 1900, TERM.--FEBRUARY 8, 10th JUDICIAL DAY.

#898,

W. W. Stovall and I. J. Stovall,
as W. W. Stovall & Brother,
Appellant,

vs.

Virginia G. Adair and
R. B. Adair, Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court should be reversed at cost of defendants in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be now reversed at cost of defendants in error.

Opinion by Burford, C.J.

#944,

F. A. Richardson, W. C. Munroe,
Joseph Murray, Gilbert Martin
and George W. Mullinix,
Appellants,

vs.

Elisha Penny, Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiffs in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiffs in error.

Opinion by Burford, C.J.

#945,

F. A. Richardson, W. C. Munroe,
S. E. Richardson, C. Crawford,
Charles Cristoph and Chas. K.
Starkey, Appellants,

vs.

Elisha Penny, Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiffs in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiffs in error.

Opinion by Burford, C.J.

#827,

Charles W. Bailey and
Harry Plummer McCool,
Appellants,

vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that this cause should be dismissed at cost of plaintiffs in error.

It is therefore ordered and adjudged by the Court that this cause be and is hereby dismissed at cost of plaintiffs in error.

Opinion by Burford, C.J.

S U P R E M E C O U R T, J A N U A R Y, 1900, T E R M.--F E B R U A R Y 8, 10th J U D I C I A L D A Y.

#876,
The Bank of Blackwell,
Appellant,
vs.

John Dean, Assignee of
the Bank of Kildare,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiff in error.

Opinion by Burford, C.J.

#923,
The Phoenix Bridge Company,
Appellant,
vs.

J. G. Street, Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be reversed at cost of defendant in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby reversed at cost of defendant in error. Opinion by Burford, C.J.

#677,
John H. McDonald,
Appellant,
vs.

Michael Brady, Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiff in error.

Opinion by Burford, C.J.

#823,
John B. Barnett,
Appellant,
vs.

Martha J. Ruyle,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be reversed at cost of defendant in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby reversed at cost of defendant in error.

Opinion by Burford, C.J.

SUPREME COURT, JANUARY, 1900, TERM.--FEBRUARY 8, 10th JUDICIAL DAY.

#902,
Joseph Drury, Appellant,
vs.
The Territory of Oklahoma,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court should be reversed at cost of Garfield County and cause remanded.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be now reversed at cost of Garfield County, and cause remanded to said lower court.

Opinion by Burford, C.J.

#864,
The City of Guthrie, Appellant,
vs.
The T. W. Harvey Lumber
Company, Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be now affirmed at cost of plaintiff in error.

Opinion by McAtee, J.

#879,
L. A. Tibbitts, et al, Appellants,
vs.
H. A. Miller, et al,
Appellees.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be and the same is hereby reversed and cause remanded at cost of defendant in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is now hereby reversed at cost of defendants in error, and said cause remanded.

Opinion by McAtee, J.

#841,
Charles Richie, Appellant,
vs.
The Territory of Oklahoma,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiff in error.

Opinion by McAtee, J.

SUPREME COURT, JANUARY, 1900, TERM.--FEBRUARY 8, 10th JUDICIAL DAY.

#920,
The Territory of Oklahoma,
Appellant,
vs.

T. M. Richardson, Jr.,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of Noble County.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of Noble County.

Opinion by McAtee, J.

#932,
Thomas H. Jenks, and
Agnes D. Jenks,
Appellants,
vs.

Hugh J. McGowan,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiffs in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiffs in error.

Opinion by McAtee, J.

#634,
H. E. Smith and
Johanna Smith,
Appellants,
vs.

D. M. Phillips,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be and the same is hereby reversed and cause remanded at cost of defendant in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is now hereby reversed at cost of defendant in error, and said cause remanded.

Opinion by McAtee, J.

#887,
W. C. Sims,
Appellant,
vs.

Black Dog,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is now hereby affirmed at cost of plaintiff in error.

Opinion by Burwell, J.

#911,

In re

J. H. Stumpff, Jr., Bankrupt.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of petitioner.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of petitioner.

Opinion by Burwell, J.

#320,

Brittain Smith & Company,
Appellant,

vs.

Burnham, Hanna, Munger &
Company, Appellees.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiff in error.

Opinion by Irwin, J.

#914,

James W. Kidd,
Appellant,

vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be and the same is hereby reversed and cause remanded for a new trial.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is now hereby reversed, and said cause remanded for a new trial at cost of Kingfisher County.

Opinion by Irwin, J.

#850,

Benj. L. Kirtley,
Appellant,

vs.

May Dykes,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be affirmed in part and reversed in part at cost of _____

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed in part and reversed in part at cost of _____

Opinion by Irwin, J.

S U P R E M E C O U R T, J A N U A R Y, 1900, T E R M.--F E B R U A R Y 8, 10th J U D I C I A L D A Y.

#692,
S. A. Moore,
Appellant,
vs.
O. H. Bevis, doing business
as the Bevis Mercantile Company,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiff in error.

Opinion by Hainer, J.

#837,
Ransom Payne and
Geneva Z. T. Payne,
Appellants,
vs.
Long-Bell Lumber Company,
and the M.E. Church South, of Enid,
Appellees.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower Court in this cause be, and the same is hereby modified and remanded with directions, etc.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby modified and remanded with directions, etc.

Opinion by Hainer, J.

#851,
Fred R. Jones,
Appellant,
vs.
Citizens Bank of North
Enid, Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower Court in this cause be, and the same is hereby reversed and cause remanded with directions.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby reversed and said cause remanded with directions.

Opinion by Hainer, J.

#904,
The Alva State Bank (a corporation)
Appellant,
vs.

J. P. Renfrew, Treasurer, and
H. C. McGrath, Sheriff of
Woods County, O.T. Appellees.

And now this cause comes on for final decision by the Court. And the Court having duly considered the same, and being fully advised in the premises finds that this cause should be dismissed.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby dismissed.

Opinion by Hainer, J.

S U P R E M E C O U R T, J A N U A R Y, 1900, T E R M.--F E B R U A R Y 8, 10th J U D I C I A L D A Y.

#865,
F. M. Stallard, and
Frank Ellis, Appellants,

vs.

Sylvester Knapp,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that this cause should be dismissed.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby dismissed.

Opinion by Hainer, J.

I N T H E S U P R E M E C O U R T O F T H E T E R R I T O R Y O F O K L A H O M A.

Veeder B. Paine, Plaintiff in error,)

vs. (

S T I P U L A T I O N.

John C. Foster, W. S. Robertson)
and A. C. Schnell, Defendants in error.:)

It is hereby stipulated by and between the parties to the above entitled cause by their respective attorneys, that the clerk of the Supreme Court of the Territory of Oklahoma, in making up the transcript of the record on appeal to the Supreme Court of the United States, shall certify the original exhibits to the complaint of the plaintiff in the court below and in this court in said cause, and it shall not be necessary to copy said exhibits, but the originals shall be certified in place of a copy thereof, and we consent that the Supreme Court or Chief Justice thereof may make an order directing said original exhibits to be certified to the Supreme Court as a part of the record in said cause.

Dale & Bierer,
Attorneys for plaintiff in error.

Horace Speed,
Attorney for defendants in error.

On the above and foregoing stipulation of the parties, it is ordered and directed that the clerk of the Supreme Court of the Territory of Oklahoma in making up the transcript of the record in the above entitled cause for appeal to the Supreme Court of the United States, shall certify as a part of said record the original exhibits to the complaint of plaintiff in error, and plaintiff in the trial court, and that it shall not be necessary to copy said exhibits as a part of the transcript of the record in said cause, but that the originals thereof shall be certified in place of a copy thereof.

Done by order of the Supreme Court of the Territory of Oklahoma at Guthrie, Oklahoma, this 8th day of February, 1900.

Jno. H. Burford,
Chief Justice of the Supreme Court
of Oklahoma Territory.

SUPREME COURT, JANUARY, 1900, TERM.--FEBRUARY 8, 10th JUDICIAL DAY.

UNITED STATES OF AMERICA,)
: ss.
Territory of Oklahoma.)

In the Supreme Court,
January Term, 1900.

ORDER CHANGING TERMS OF COURT IN

THE FOURTH JUDICIAL DISTRICT.

WHEREAS, a necessity exists for a change of the terms of court heretofore fixed for the Fourth Judicial District of the Territory of Oklahoma, it is hereby ordered by the Court:

That the term heretofore fixed for Noble County, at Perry, for May 1, is hereby changed, and fixed for Monday, March 5, 1900.

That the term heretofore fixed for Kay County, at Newkirk, for March 5, is hereby changed, and fixed for Tuesday, April 3, 1900.

That the term heretofore fixed for the Osage Nation, at Pawhuska, for April 3, is hereby changed for Tuesday, May 8, 1900.

That the term heretofore fixed for Pawnee County, at Pawnee, for April 10, is hereby changed, and fixed for Tuesday, May 15, 1900.

It is further ordered by the Court: That all causes at issue and standing for trial in said courts at the dates heretofore fixed, shall stand for trial at the dates provided for in this order. And all orders, writs and summonses of every character, returnable to said terms as heretofore fixed, shall be returnable and stand for determination at the dates provided for in this order. And all persons under bond or recognizance to appear at any of the said terms as heretofore fixed shall be required to appear on the first day of the terms as fixed in this order.

It is further ordered by the Court: That the order heretofore made fixing terms of courts in said Fourth District as follows, to-wit: For Kay County, March 5; for Pawhuska, April 3; for Pawnee County, April 10; and for Noble County, May 1, 1900, be and the same is hereby vacated and set aside.

It is further ordered, That the clerk transmit a certified copy of this order to each of the District Courts of the Territory, and to the United States Attorney and United States Marshal.

Jno. H. Burford,
Chief Justice.

It is now ordered that Court adjourn until 10 o'clock to-morrow morning.

S U P R E M E C O U R T, J A N U A R Y, 1900, T E R M.--F E B R U A R Y 9, 11th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA,

BE IT REMEMBERED, That on the Ninth day of February, in the year of our Lord one thousand and nine hundred, the Supreme Court convened in regular session for the January 1900 term, pursuant to yesterday's adjournment, this being the 11th Judicial day;

Present, Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices Jno. L. McAtee, Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin; Benj. F. Hegler, Clerk; Horace Speed, U. S. Attorney; Canada H. Thompson, U. S. Marshal; and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#935,
F. A. Richardson and
S. E. Richardson,
Appellants,
vs.

Lena Fellner and
Elisha Penny,
Appellees.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be reversed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be now reversed at cost of defendant in error.

Opinion by Burford, C.J.

#907,
J. W. Lawton,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be reversed and cause remanded at cost of Custer County.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be now reversed at cost of Custer County, and cause remanded to said lower court.

Opinion by Hainer, J.

#903,
Russell E. Gardner,
Appellant,
vs.

W. C. McCune, et al,
The Board of Education of the
City of Perry, Appellees.

And now the Court grants leave to amend the alternative writ herein.

S U P R E M E C O U R T, J A N U A R Y, 1900, T E R M.--F E B R U A R Y 9, 11th J U D I C I A L D A Y.

#956,
Frank Meler, Appellant,
vs.

Daniel A. Hull, Appellee.

And now this cause comes on for determination by the Court upon the motion to dismiss the appeal herein. And the Court having duly considered said motion, and being fully advised in the premises finds that the motion should be sustained and the appeal dismissed.

It is therefore ordered and adjudged by the Court that this cause be and the same is hereby dismissed at the cost of plaintiff in error.

#919,
Edward B. Justus,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for determination by the Court upon the application for reinstatement thereof. And the Court having duly considered said application and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the application to reinstate this case be now denied.

#947,
J. A. Wilson,
Appellant,
vs.

James M. McCornack
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at cost of plaintiff in error.

Opinion by Hainer, J. (Not filed)

In re,
Nathan Neeley, Habeas Corpus,

And now this cause comes on for hearing and determination by the Court upon the verified petition of the said Nathan Neely, petitioner, and the briefs and arguments submitted herein.

And the Court having duly considered the same, and being fully advised in the premises, finds: That the application of the petitioner should be denied; and that said petitioner Nathan Neely, should be remanded to the custody of the Sheriff of said Oklahoma County.

It is therefore ordered and adjudged by the Court: That a writ of habeas corpus be and is hereby denied the said Nathan Neeley, petitioner therefor; and that he be remanded to the custody of the Sheriff of the County of Oklahoma, Territory of Oklahoma.

Jno. H. Burford,

Chief Justice.

S U P R E M E C O U R T, J A N U A R Y, 1900, T E R M.--F E B R U A R Y 9, 11th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,) ss.
Territory of Oklahoma.)

In the Supreme Court,

January Term, 1900.

ORDER FIXING TERMS IN GARFIELD COUNTY.

Ordered by the Court: That terms of court be fixed for the District Court of the County of Garfield, in the Fifth Judicial District, Territory of Oklahoma, as follows, to-wit:

For Garfield County, at Enid, February 10, 1900.

For Garfield County, at Enid, March 8, 1900.

It is further ordered by the Court: That the order heretofore made fixing a term of the District Court for Garfield County for February 19, 1900, be and the same is hereby revoked and set aside. And that all causes at issue and standing for trial at the date heretofore fixed, to-wit, February 19, 1900, shall stand for trial at the date, to-wit: February 10, 1900, fixed in this order. And all orders, writs and summonses of every character, returnable to the term heretofore fixed for February 19, 1900, shall be returnable and stand for determination at the date, to-wit: February 10, 1900, provided in this order. And all persons under bond or recognizance to appear at said February 19, 1900, term, shall be required to appear on the first day of the February 10, 1900 term as provided in this order.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order to each of the District Courts of the Territory, and to the United States Attorney and United States Marshal.

Jno. H. Burford,

Chief Justice.

#117,
Veeder B. Paine,
Appellant,
vs.

John C. Foster,
W. S. Robertson
and A.C. Schnell,
Appellees.

And now Justice McAtee announces his dissenting opinion herein, and the same is filed.

#968,
In re,
Charles W. Bailey and Harry
Plummer McCool, (Habeas Corpus)

Comes now C. R. Buckner and gives notice of the filing of his application for a writ of Habeas Corpus herein.

#902,
Joseph Drury,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

Comes now C. R. Buckner counsel for plaintiff in error herein and asks that time be waived and mandate issue to the lower court in this cause.

It is therefore ordered by the court that said mandate issue, waiver by the Territory being shown. And time is waived.

SUPREME COURT, JANUARY, 1900, TERM.--FEBRUARY 9, 11th JUDICIAL DAY.

#962,
Taylor Kirk,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

Comes now R. B. Forrest, counsel for plaintiff in error, and Harper S. Cunningham, Attorney General, counsel for the Territory, defendant in error, and oral argument is had upon this cause, and the Court takes the same under advisement.

ORDER TO PAY COURT CRIER.

Ordered by the Court that the U. S. Marshal be and he is hereby directed to pay John C. Orner, Court Crier the sum of _____ dollars for _____ days services as such crier.

#894,
The Long Bell Lumber Company,
(a corporation) Appellant,

vs.

H. B. Martin, Appellee.

And now this cause comes on for determination by the Court upon the application to withdraw the case-made herein. And said application having been duly considered by the Court, and they being fully advised in the premises finds that the same should be allowed.

It is therefore ordered by the Court that the withdrawal of the case-made herein be and the same is hereby allowed.

Ordered that court now adjourn to March 23, 1900.

S U P R E M E C O U R T, J A N U A R Y, 1900, T E R M.--M A R C H 23, 12th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA,

BE IT REMEMBERED, That on the twenty-third day of March, in the year of our Lord one thousand and nine hundred, the Supreme Court convened in regular session for the January 1900 term, pursuant to adjournment of February 9th, this being the 12th judicial day;

Present, Honorable Jno. H. Burford, Chief Justice, presiding; Associate Justices Jno. L. Mcatee, Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin; Benj. F. Hegler, Clerk; Horace Speed, U.S. Attorney; Canada H. Thompson, U. S. Marshal; and John C. Orner, Court Crier;

Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

ADDITIONAL SUPREME COURT RULES.

Rule 27. Any Justice may file a dissenting opinion in any cause in which he is qualified to sit, and in the determination of which he participates, but before any such dissenting opinion is filed it shall be submitted in conference to the Justices who concurred in the original opinion. No syllabus to a dissenting opinion shall be published.

Rule 28. In the taxation of costs in the Supreme Court, the Clerk shall not tax any costs for expense of case made, transcript or record, unless the person claiming same shall, prior to the filing of the opinion in the cause, file with the Clerk a verified statement of such expenses, and showing that he has paid the same.

#962,
Taylor Kirk,
Appellant,
vs.

The Territory of Oklahoma,
Appellee.

And now this cause comes on for final decision by the Court upon the records and briefs and oral arguments of counsel for the parties therein. And the Court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court herein should be reversed, at the cost of Washita County and a new trial ordered; and that said cause be remanded to the District Court of Canadian County with directions to make an order directing the return of the prisoner to the County jail of Canadian County and set the cause down for trial.

It is therefore ordered and adjudged by the Court that the judgment of the lower court herein be and the same is hereby reversed at the cost of Washita County, and a new trial ordered; and that said cause be remanded to the District Court of Canadian County with directions to make an order directing the return of the prisoner to the county jail at Canadian County, and that this cause be set down for trial.

Opinion by Burford, C.J. (To be filed to-morrow)

SUPREME COURT, JANUARY, 1900, TERM.--MARCH 23, 12th JUDICIAL DAY.

#887,
W. C. Sims,
Appellant,
vs.
Black Dog,
Appellee.

And now this cause comes on for determination by the Court upon the petition for rehearing therein. And the court having duly considered said petition, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the petition for a rehearing of this cause be and the same is hereby denied.

#692,
S. A. Moore,
Appellant,
vs.
O. H. Bevis, doing business
as the Bevis Mercantile
Company, Appellee.

And now this cause comes on for determination by the Court upon the petition for rehearing therein. And the court having duly considered said petition, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the petition for a rehearing of this cause be and the same is hereby denied.

#945,
F. A. Richardson, W. C. Munroe,
S. E. Richardson, C. Crawford,
Chas. Cristoph, and Charles K.
Starkey, Appellants,
vs.
Elisha Penny, Appellee.

And now this cause comes on for determination by the Court upon the petition for rehearing therein. And the court having duly considered said petition, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the petition for a rehearing of this cause be and the same is hereby denied.

#918,
Sam Lee, Appellant,
vs.
Herbert E. Ellis and
George P. Endicott,
Appellees.

And now this cause comes on for determination by the Court upon the petition for rehearing therein. And the court having duly considered said petition, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the petition for a rehearing of this cause be and the same is hereby denied.

SUPREME COURT, JANUARY, 1900, TERM.--MARCH 25, 12th JUDICIAL DAY.

#917,
George P. Endicott,
Appellant,
vs.

Herbert E. Ellis and
Sam Lee, Appellees.

And now this cause comes on for determination by the Court upon the petition for rehearing therein. And the court having duly considered said petition, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the petition for a rehearing of this cause be and the same is hereby denied.

#877,
John H. McDonald,
Appellant,
vs.

Michael Brady, Appellee.

And now this cause comes on for determination by the Court upon the petition for rehearing therein. And the court having duly considered said petition, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the petition for a rehearing of this cause be and the same is hereby denied.

#866,
W. J. Mendenhall,
Appellant,
vs.

Byron E. Cagle,
Appellee.

And now this cause comes on for determination by the Court upon the petition for rehearing therein. And the court having duly considered said petition, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the petition for a rehearing of this cause be and the same is hereby denied.

#860,
George Theis, Jr.,
Appellant,
vs.

Board of County Commissioners
of the County of Washita,
Appellee.

And now this cause comes on for determination by the Court upon the petition for rehearing therein. And the court having duly considered said petition, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the petition for a rehearing of this cause be and the same is hereby denied.

SUPREME COURT, JANUARY, 1900, TERM.--MARCH 23, 12th JUDICIAL DAY.

#741,

Jonas H. Cook, Jonas M. Berry
Guardians of the Infant children
of Francis R. McKennon, deceased,
Harvy L. McKennon, Chandler McKennon
and Fannie McKennon, infant children of
Francis R. McKennon, deceased, T. F.
McKennon administrator estate
Francis R. McKennon, deceased, and S. L.
Overstreet, Guardian ad litem,

Appellants,

vs.

Emma D. McCord, Nelson F. Cheadle,
A. G. Wescott, and S. L. Overstreet,
Receiver,

Appellees.

And now this cause comes on for determination by the court upon the petition for rehearing therein. And the Court having duly considered said petition and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the Court that the petition for a rehearing of this cause be and the same is hereby denied.

#913,

The Greenville National Bank
(a corporation)

Appellant,

vs.

Evans-Snider-Buel Company
and J. R. Stevens, Appellees.

And now this cause comes on for decision by the Court upon the motion of plaintiff in error to tax the costs of case-made herein. And the Court having duly considered the motion and being fully advised in the premises, finds that said motion to tax costs of case-made herein was not filed until after the rendition of the opinion reversing and remanding said cause; and that said motion should be overruled.

It is therefore ordered and adjudged by the Court that the motion to tax costs of case-made herein be and the same is hereby overruled.

#904,

The Alva State Bank,
(a corporation)

Appellant,

vs.

J. P. Renfrew, Treasurer, and
H. C. McGrath, Sheriff of
Woods County, Territory of
Oklahoma,

Appellees.

And now this cause comes on before the Court upon the petition of plaintiff in error for a rehearing of the same. And the Court having duly examined said petition and being fully advised in the premises finds that the stipulation for a continuance herein was filed prior to the decision in this case; and that a rehearing thereof should be granted.

It is therefore ordered and adjudged by the Court that a rehearing be granted in this cause.

#908,

Nimrod W. Yelton,

Appellant,

vs.

Hannie E. Yelton,

Appellee.

And now this cause comes on for consideration by the Court upon the motion of plaintiff in error to reinstate the same. And the Court having duly considered said motion, and being fully advised in the premises finds that said motion should be overruled.

It is therefore ordered and adjudged by the Court that the motion to reinstate this cause be and the same is hereby overruled at the cost of plaintiff in error.

SUPREME COURT, JANUARY, 1900, TERM.--MARCH 23, 12th JUDICIAL DAY.

#919,
Edward B. Justus,
Appellant,
vs.

The Territory of Oklahoma,
Defendant.

And now this cause comes on for consideration by the Court upon the motion of plaintiff in error to reinstate the same. And the Court having duly considered said motion and being fully advised in the premises finds that said motion should be overruled.

It is therefore ordered and adjudged by the Court that the motion to reinstate this cause be and the same is hereby overruled at the cost of plaintiff in error.

#935,
F. A. Richardson and
S. E. Richardson,
Appellants,
vs.

Lena Fellner and
Elisha Penny, Appellees.

And now this cause comes on for decision by the Court upon the motion of plaintiffs in error to tax costs of case-made herein. And the Court having duly considered said motion and being fully advised in the premises finds that said motion to tax costs of case-made herein was not filed until after the rendition of the opinion reversing and remanding said cause; and that said motion should be overruled.

It is therefore ordered and adjudged by the Court that the motion to tax costs of case-made herein be and the same is hereby overruled.

#951,
J. D. Fox, Appellant,
vs.

Birdie F. Easter,
Appellee.

And now this cause comes on for determination by the Court upon the motion to dismiss the same. And the Court having duly considered said motion, and being fully advised in the premises finds that the same should be overruled.

It is therefore ordered and adjudged by the Court that the motion to dismiss herein be and the same is hereby overruled.

#954,
S. J. Jordan, Appellant,
vs.

Lelah Davis, Appellee.

And now this cause comes on for determination by the Court upon the motion to dismiss the same. And the Court having duly considered said motion, and being fully advised in the premises finds that the same should be overruled.

It is therefore ordered and adjudged by the Court that the motion to dismiss herein be and the same is hereby overruled.

#960,
William Mulkins, Appellant,
vs.

The United States, Appellee.

And now this cause comes on for consideration by the Court upon the motion to withdraw case-made herein for certification by the District Clerk. And the Court having duly considered said motion, and being fully advised in the premises finds that the same should be granted.

It is therefore ordered and adjudged by the Court that the motion to withdraw case-made herein for certification by the District Clerk be allowed.

S U P R E M E C O U R T, J A N U A R Y, 1900, T E R M.--M A R C H 23, 12th J U D I C I A L D A Y.

#967,

The Long-Bell Lumber Company,
(a corporation) Plaintiff in error,

vs.

H. B. Martin, Defendant in error.

And now this cause comes on for hearing on the motion to strike petition in error and case-made from the files, and the motion for a continuance.

And the Court having duly considered said motions, and being fully advised in the premises, finds: That the motion to continue said motion to strike from the files should be sustained, and said motion to dismiss should be continued. It is therefore

Ordered by the Court: That the motion to continue the motion to strike petition ^{in error} and case-made from the files in this case be and the same is hereby sustained; and that said motion to strike be and the same is hereby continued.

#886,

George G. Boggs,
Appellant,

vs.

The United States,
Appellee.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein. And the Court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed at the cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by McAtee, J. Hainer, J. dissenting. (Opinion not yet filed)

Ordered that court now adjourn until 8 o'clock this evening.

S U P R E M E C O U R T, J A N U A R Y, 1900, T E R M.--M A R C H 23, 12th J U D I C I A L D A Y.

Eight p.m. court convened pursuant to afternoon adjournment. Officers present same as of morning session. Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

#878,
George W. Allen and
Fifty-three others,
Appellants,
vs.

The Board of Election
Commissioners of Grant
County, to-wit: Howard Reed,
Thomas Kearse, and N. B. Freeland,
Appellees.

And now this cause comes on for final decision by the court upon the motion by relator for a review of the denial of the writ heretofore made herein, and the record and briefs submitted in said cause. And the court having duly considered said motion, and being fully advised in the premises finds that the motion for a review should be denied, and the peremptory writ of mandamus asked should be refused, and the cost of this proceeding taxed to the relator.

It is therefore ordered and adjudged by the Court that the motion for a review of the denial of the writ heretofore made be and the same is hereby overruled.

It is further ordered by the Court that the peremptory writ of mandamus asked herein be and the same is hereby refused; and that the cost of this proceeding be taxed to relator.

Opinion by Hainer, J., Burford, C.J. concurring fully; Burwell and Irwin, JJ., concurring in the result but not as to the reasoning therein; McAtee, J. not sitting.

#874,
Territory of Oklahoma, ex rel
S. P. Ridings, County Attorney
of the County of Grant, Oklahoma
Territory, Appellant,

vs.

T. P. Neville, H. M. Brewer, and J. M. Corey
as the Board of County Commissioners of
Grant County, Howard D. Reed as County Clerk
said County of Grant, and the Trustees of the various
townships of said County named in full in the petition,
Appellees.

And now this cause comes on for final decision by the Court upon the record, briefs and oral arguments therein. And the Court having heard and duly considered the same, and being fully advised in the premises finds that the decision of the district court in refusing the temporary injunction herein should be affirmed at the cost of plaintiffs in error.

It is therefore ordered, adjudged and decreed by the court that the decision of the district court in refusing the temporary injunction herein be and the same is hereby affirmed at the cost of plaintiffs in error; to which decision and judgment the plaintiff in error excepts.

Opinion by Irwin, J. Justice Burwell concurring in the result, but not as to the reasons expressed; Chief Justice Burford and Justice Hainer dissenting; Justice McAtee who presided below not sitting.

#606,
A. L. Sweet, et al,
Appellants,
vs.

J. W. Boyd, Appellee.

And now the clerk presents to the court the mandate from the Supreme Court of the United States in this cause, and asks direction thereon. And it is ordered by the Court that the clerk spread said mandate of record.

SUPREME COURT, JANUARY, 1900, TERM.--MARCH 23, 12th JUDICIAL DAY.

ORDER ASSIGNING CHIEF JUSTICE BURFORD TO PRESIDE AT WOODS COUNTY DISTRICT COURT.

It appearing to the Court that the Hon. Jno. L. McAtee, Associate Justice of the Supreme Court, and presiding Judge of the Fifth Judicial District, is absent therefrom, and will be so absent on April 2, 1900, it is therefore

Ordered by the Court, that the Hon. Jno. H. Burford, Chief Justice of said Supreme Court, and presiding Judge of the First Judicial District, be and he is hereby assigned to preside at the District Court for the County of Woods, at Alva, in said Fifth District, beginning April 2, 1900; and to try, hear and determine all matters and causes pending in said court, or that may come before it during the absence of the regular presiding Judge therefrom.

It is further ordered, That the Clerk transmit a certified copy of this order, under the signature and seal of his office, to the said Chief Justice, and also a copy to the Clerk of the First and Fifth Districts.

(Seal)

Jno. H. Burford,
Chief Justice.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

#903,
Russell E. Gardner,
Appellant,
vs.

W. C. McCune, A.C. Potter, Joe Dalezell,
A. C. Holland, W. E. Larsh, C.K. Nicoll,
Mary McKinnack, George Bruce and John
Caldwell, members composing the School Board
of the Board of Education of the city of
Perry, of the Territory of Oklahoma, et al
Appellees.

And now this cause comes on for determination by the Court upon demand for a jury trial herein. And the Court having duly considered said motion and being fully advised in the premises finds that a jury trial should be had herein, and that this cause should be dismissed from this court.

It is therefore ordered and adjudged by the Court that the appeal herein be and the same is hereby dismissed.

#940,
Clay Axhelm,
Appellant,
vs.

The United States of America,
Appellee.

Comes now Horace Speed, United States Attorney, and shows to the Court that the Marshal has requested three copies of the opinion in this cause, one for presentation to the keeper of the insane asylum at Washington where said plaintiff in error is confined; one for delivery with the prisoner to the Federal jailer at Guthrie, and one on which to make his return to the District Court of Noble County.

It is therefore ordered by the Court that the Clerk furnish said copies under his certificate and seal to said Marshal as herein requested.

#837,
Payne, et al,
Appellants,
vs.

The Long-Bell Lumber Company,
Appellee.

Comes now Benj. F. Hegler, Clerk of the Supreme Court, and asks an order for taxing of costs

SUPREME COURT, JANUARY, 1900, TERM.--MARCH 23, 12th JUDICIAL DAY.

in the above entitled cause. And the Court having duly considered said application, and being fully advised in the premises, finds: That the costs in Supreme Court in said cause should be taxed to the Long-Bell Lumber Company.

It is therefore ordered and adjudged by the Court, that the costs of this action be, and they are hereby taxed to the Long-Bell Lumber Company in the sum of \$23.10.

UNITED STATES OF AMERICA, SS:

The President of the United States of America,

(No. 606.)

To the Honorable the Judges of the Supreme Court of the Territory of Oklahoma.

GREETING:

WHEREAS, lately in the Supreme Court of the Territory of Oklahoma before you, or some of you, in a cause between J. L. Sweet, County Treasurer of Greer County, and G.W.Briggs, J.H.Reedy, and W.B.Cook, as the Board of County Commissioners of Greer County, plaintiffs in error, and G.W.Boyd et al, defendants in error, wherein the judgment of the said Supreme Court entered in said cause on the 18th day of February, A.D.1898, was in favor of the said plaintiffs in error, J.L.Sweet, County Treasurer &c., et al, and against the said defendants in error, as by the inspection of the transcript of the record of the said Supreme Court, which was brought into the Supreme Court of the United States by virtue of an appeal agreeably to the act of Congress, in said case made and provided, fully and at large appears.

AND WHEREAS, in the present term of October, in the year of our Lord one thousand eight hundred and ninety-nine, this cause having been called for hearing in its regular order, and it appearing to the Court that the parties have failed to print the transcript of the record, It is, therefore, in pursuance of the 10th rule of this Court, now here ordered, adjudged, and decreed, by this Court, that this appeal be, and the same is hereby, dismissed with costs; and that the said plaintiffs in error recover against the said defendants in error, G.W.Boyd et al., Twenty dollars for their costs herein expended and have execution therefor.

January 29, 1900.

You, therefore, are hereby commanded that such execution and proceedings be had in said cause as according to right and justice, and the law's of the United States, ought to be had, the said appeal notwithstanding.

WITNESS the Honorable MELVILLE W. FULLER, Chief Justice of the United States, the 13th day of March, in the year of our Lord one thousand nine hundred.

Costs of plaintiff in error.	)
Clerk-----\$ paid	)
Attorney-----\$ 20.00	)
\$ 20.00	)

James H. Mc Kenney,

Clerk of the Supreme Court of the
United States.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

United States of America,)
 : ss.
 Territory of Oklahoma. (

The President of the United States of America, to the Honorable Judges and Clerk of the Supreme Court of the Territory of Oklahoma, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said Supreme Court of the Territory of Oklahoma, before you, being the highest Court of Law or Equity of said Territory, in which a decision could be had in said suit between Burton S. Barnes and John W. Dalton as partners as Barnes and Dalton, and J. W. Lynch, The Ponca City Land and Improvement Co., a Corporation, D. C. Pryor and Chester Howe, wherein a judgment was rendered in said cause in favor of the defendants in error, and against the plaintiffs in error, dismissing the action of the plaintiffs in error against the defendants in error, and affirming the judgment of the lower court in favor of the defendant in error, at the cost of the plaintiffs in error, and adjudging that the plaintiffs in error take nothing by their said action, and wherein the value of the property and the amount of the controversy between said parties in said cause, exclusive of costs, as shown by the affidavit of James B. Diggs, Esq., one of the attorneys for the plaintiffs in error, exceeded and exceeds the sum of five thousand (\$5,000) dollars, and is of about the sum of twenty-five thousand (\$25,000) dollars, a manifest error has happened, to the great damage of the said Burton S. Barnes and John W. Dalton, as by their complaint appears, we, being willing that error, if any have been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, that if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning same, to the Supreme Court of the United States, together with this writ so that you have the same at Washington at the said Supreme Court, within thirty days from the date hereof, that the record and proceedings aforesaid may be inspected, and the Supreme Court may cause further to be done therein to correct that error, what of right and according to the customs and laws of the United States should be done.

Witness the Honorable MELVILLE W. FULLER, Chief Justice of said Supreme Court, this 17th day of January, in the year of our Lord one thousand and nine hundred, and the Independence of the United States of America one hundred and twenty-five.

(Seal)

Benj. F. Hegler,

Clerk of the Supreme Court

of the Territory of Oklahoma
 By M. E. Ketsch, Deputy.

The foregoing writ is hereby allowed.

Jno. H. Burford,

Chief Justice of the Supreme Court
 of the Territory of Oklahoma.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

IN RE

Assignment of Judge for District Court of Lincoln County, for February Term, 1900.

WHEREAS, It has been made to appear to me as Chief Justice of the Supreme Court of the Territory of Oklahoma, that John H. Burford, presiding Judge of the First Judicial District, and of the District Court of Lincoln County, has been regularly assigned to the District Court of Oklahoma County to preside in said court and hear certain causes in which the regular judge of said district is disqualified, and that by reason of said assignment the said John H. Burford will be absent from his district and unable to preside during a portion of the February Term, 1900, of the district court of Lincoln County,

IT IS NOW HEREBY ORDERED That Hon. B.F. Burwell, presiding Judge of the Third Judicial District, be and he is hereby designated and assigned to hold the said district court of Lincoln County, and to preside therein during the absence of the regular Judge therefrom, and to hear, try and determine all matters or causes which may come before said Court or the Judge thereof, for hearing or determination, as fully as the regular Judge of said Court might do if personally present.

Done at Chambers, this 15th day of February, 1900.

Jno. H. Burford,

Chief Justice.

IN RE

Assignment of Judge for Third Judicial District, and February Term of District Court Oklahoma County.

WHEREAS, It has been made to appear to me as Chief Justice of the Supreme Court of the Territory of Oklahoma, that Hon. B. F. Burwell, presiding Judge of the third Judicial District, is disqualified to hear certain causes now pending in the district court of Oklahoma County, and that by reason of his assignment to preside in the district court of Lincoln County in the first Judicial District, during a portion of the February, 1900, term thereof, he will necessarily be absent from his District.

IT IS NOW HEREBY ORDERED That John H. Burford, presiding Judge of the First Judicial District be and he is hereby designated for and assigned to the district court of Oklahoma County, to preside over said court, and determine all causes and matters in which the Hon. B. F. Burwell is disqualified to sit as presiding Judge, and during the absence of said regular Judge from said District, to hold the district court in said District, and in Oklahoma County, and to hear, try, and determine all causes and matters which may come before said court or the Judge thereof, for hearing or determination, as fully as the regular presiding Judge might do if personally present, and presiding in said District.

Done in Chambers at the City of Guthrie, on this 15th day of February, A. D. 1900.

Jno. H. Burford,

Chief Justice.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

Benjamin L. Kirtley,
Plaintiff in error,
vs.
May Dykes,
Defendant in error.

ORDER STAYING MANDATE.

Now on this twentieth day of February, 1900 comes the plaintiff in error in the above entitled cause by his attorneys, Dale & Bierer, and presents to the undersigned Chief Justice of the territory of Oklahoma his motion for leave to file his petition for rehearing and for an order to stay the mandate in the above entitled cause, and also his petition for rehearing duly printed, as provided by the rules of the supreme court of the

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N.

territory of Oklahoma, and upon examination of said petition, it is, therefore, ordered that the mandate therein be stayed, until the next meeting of the Supreme Court, and the clerk of this court is ordered and directed not to transmit the mandate in said cause to the district court from whence said appeal was taken.

Jno. H. Burford,

Chief Justice of the Supreme Court of the Territory of Oklahoma.

I N T H E S U P R E M E C O U R T O F T H E T E R R I T O R Y O F O K L A H O M A.

Benjamin L. Kirtley,
Plaintiff in error,
vs.

May Dykes,
Defendant in error.

O R D E R.

Now on this 26th day of March, A. D. 1900, it is by the undersigned Chief Justice of the supreme court of Oklahoma Territory hereby ordered that the order staying the mandate made heretofore on the 21st day of February 1900, is hereby continued until the further order of the court of judge thereof.

Jno. H. Burford,

Chief Justice.

I N T H E S U P R E M E C O U R T O F T H E T E R R I T O R Y O F O K L A H O M A.

F. A. Richardson et al,
Plaintiffs in error,
vs.

Elisha Penny,
Defendant in error.

#944.

O R D E R O F S U P E R S E D E A S.

And now on this 22d day of February, 1900, this cause comes on to be heard before me, John H. Burford, as Chief Justice of the Territory of Oklahoma, at chambers, on the application for an order of superseas, and it appearing to me that a petition for rehearing has been filed in said cause within the time prescribed by law; and that due notice thereof has been given to the defendant in error; and that notice of said rehearing was served on H. R. Thurston, counsel for defendant in error within ten days after the rendition of the decision in said cause, it is hereby ordered, adjudged and decreed that the judgment of the Supreme Court of the Territory of Oklahoma heretofore entered in said cause be, and the same hereby is, held up and superseded until the final hearing of the petition for rehearing, and the clerk of the Supreme Court of the Territory of Oklahoma is hereby ordered and directed not to issue a mandate in said cause until the further order of the Supreme Court, this order to be in force and effect until the same is set aside by order of the Supreme Court and until the decision on the petition for rehearing.

Witness Hon. John H. Burford, as Chief Justice of the Territory of Oklahoma, at chambers this 22d day of February, 1900.

Jno. H. Burford,

Chief Justice.

I N T H E S U P R E M E C O U R T O F T H E T E R R I T O R Y O F O K L A H O M A.

Whereas, it has been made to appear to me that Hon. John L. McAtee, Associate Justice of the Supreme Court, and presiding Judge of the Fifth Judicial District, is now absent from his district, and is and will, by reason of said absence, be unable to hold the District Court of Garfield County, commencing on the 8th day of March, 1900--

It is now by me hereby ordered that Associate Justice C. F. Irwin be and he is hereby designated and assigned to said Fifth Judicial District, and authorized to open and hold the District Court of said Garfield County and of the said Fifth Judicial District during the absence of said presiding judge, John L. McAtee, and the Clerk of the Supreme Court is directed to record this order and transmit a certified copy to the clerk of the District Court of Garfield County. Witness my hand, at Chambers, this March 5, 1900.

Jno. H. Burford, Chief Justice.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

I N T H E S U P R E M E C O U R T O F T H E T E R R I T O R Y O F O K L A H O M A .

WHEREAS, It has been made to appear to me that Hon. Jno. L. McAtee, presiding Judge of the fifth Judicial District, is absent from his said District, and by reason of said absence unable to hold the March term of the district court of Garfield County,

IT IS NOW THEREFORE ORDERED by me that Associate Justice Bayard T. Hainer be and he is hereby assigned to the fifth Judicial District and designated to hold the March term of the district court of Garfield County during the absence of the regular presiding Judge of said District, and to try and determine all causes now pending or that may be brought in said court during said absence, and to do and perform whatever acts the regular Judge might do if present.

And the Clerk of the Supreme Court is directed to record this order and transmit a copy to the clerk of the district court of Garfield County and a copy to the Hon. Bayard T. Hainer, at Perry, Oklahoma.

Done in Chambers, this 7th day of March, A. D. 1900.

Jno. H. Burford,

Chief Justice.

I N T H E S U P R E M E C O U R T O F T H E T E R R I T O R Y O F O K L A H O M A .

The Long-Bell Lumber Company, a corporation,
Plaintiff in error,
vs.

H. B. Martin,

Defendant in error.

O R D E R .

Now upon this 6th day of April, 1900, upon application by Plaintiff in error for an order staying further proceedings in said cause and after hearing said application and being fully advised in the premises, said application is hereby granted and it is therefore ordered that the clerk of the District Court of the Fourth Judicial District of the Territory of Oklahoma, in and for Noble County is hereby ordered to recall the execution heretofore issued against Plaintiff in Error in favor of Defendant in Error on the 6th day of April 1900, upon filing a bond payable to the adverse party, in not less than \$1500.00, said bond to be approved by the clerk of said District Court and to be conditioned as required by law, and that George A. Foster the sheriff of Noble County, discontinue all other and further proceedings under and by virtue of the said execution until further order of the Supreme Court, and make return of said execution to the Clerk of said Court.

Witness my hand and the seal of the Supreme Court, in chambers at Oklahoma City, this 6th day of April 1900, and the clerk of the Supreme Court is directed to transmit a certified copy of this order to the Clerk of the District Court of Noble County.

B. F. Burwell,

Associate Justice Supreme Court.

UNITED STATES OF AMERICA,)
Territory of Oklahoma.) SS.

I N T H E S U P R E M E C O U R T .

Order assigning Associate Justice Burwell to preside at Woods County District Court.

Whereas, a necessity exists for the holding of District Court for the County of Woods, Territory of Oklahoma, at Alva, and the Hon. Jno. L. McAtee, the regular presiding Judge of said District is absent therefrom;

Now, therefore, it is hereby ordered: That the Hon. B. F. Burwell, Associate Justice of the Supreme Court of said Territory, and presiding Judge of the Third Judicial District thereof, be and he is hereby assigned to hold said District Court of Woods County, on Tuesday April 10, 1900, and to hear and determine all matters that may come before said Court while he is so presiding, and during the absence of the regular presiding judge from said Court.

It is further ordered, that the Clerk transmit a certified copy of this order under his signature and the Seal of the Court, to the said Justice Burwell, and to the Clerk of the District Court of said Woods County

Jno. H. Burford, Chief Justice.

~~S U P R E M E C O U R T, J A N U A R Y, 1900, T E R M. M A R C H 23, 12th J U D I C I A L D A Y.~~

UNITED STATES OF AMERICA,)
Territory of Oklahoma.) SS.

IN THE SUPREME COURT,

January Term, 1900.

ORDER CHANGING AND FIXING TERMS OF COURT IN THE FIRST JUDICIAL DISTRICT.

Whereas, a necessity exists for the change of certain terms of the District Court heretofore fixed for certain counties of the First Judicial District of the Territory of Oklahoma and the fixing of certain terms in said District, it is now

Ordered by the Court: That the term of District Court for the County of Payne, at Stillwater, heretofore fixed for the Fourth Monday of April, 1900, be and the same is hereby changed, and fixed for the First Tuesday in May.

That the Fall term of said Payne County District Court be and is hereby fixed for the First Monday in October.

That the term of District Court for the County of Woodward, at Woodward, heretofore fixed for the Second Monday of May, 1900, be and the same is hereby fixed for the Third Monday in May.

That a Fall term of said Woodward County District Court be and is hereby fixed for the Fourth Tuesday in October, at Woodward.

That the Fall term of the District Court of the County of Lincoln, be and is hereby fixed for the Second Monday in September, at Chandler.

That a term of the District Court for the County of Logan, at Guthrie, be and is hereby fixed for the Second Monday of November.

It is further ordered by the Court: That all causes at issue and standing for trial in said courts of Payne and Woodward Counties at the dates heretofore fixed, shall stand for trial at the dates provided for in this order. And all orders, writs and summons^{es} of every character, returnable to said terms as heretofore fixed, shall be returnable and stand for determination at the dates provided for in this order. And all persons under bond or recognizance to appear at any of the said terms as heretofore fixed shall be required to appear on the first day of the terms as fixed in this order.

It is further ordered by the Court: That all orders heretofore made concerning said terms, or any of them, and inconsistent herewith, be and the same are hereby revoked and set aside.

It is further ordered by the Court: That the clerk transmit a duly certified copy of this order, under the signature and seal of his office, to each of the District Courts of the Territory, and to the United States Attorney and United States Marshal.

Jno. H. Burford,

Chief Justice.

Ordered, That the January, 1900, term of the Supreme Court be now finally adjourned.

SUPREME COURT PROCEEDINGS IN VACATION.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

JUNE TERM, 1899.

#892.

School District Number Five,
Oklahoma County, Territory
of Oklahoma, Fred Ellis,
Peter P. Griner, and John F.N. Hardy,
Plaintiffs,

vs.

School District Number Eighty Three,
Oklahoma County, Territory of
Oklahoma, G.M. Thornburg, A.S. Reed,
and C.S. Eyar,
Defendants.

INFORMATION.

Plaintiffs for cause of action against the above named defendants, allege:

First.

School District Number Five, above named, is a corporation existing in Oklahoma County, and Territory of Oklahoma, for educational purposes under the Common School laws said Territory of Oklahoma, and its corporate name and designation, is and has been "School District Number Five Oklahoma County, and Territory of Oklahoma." That it became such corporation under said name on or about April 1st, 1893, and has, ever since been and now is such school corporation.

That ever since the organization of said corporation, and up to the present time it has had included in its school district the following described lands, to-wit: The West Half of Sections Nos. 6 & 7, and the North West Quarter of Section No. 18, all in Township No. 14, North and Range No. 2, West, and the whole of Sections Nos. 1, 2, 11, & 12, and the East Half of Sections Nos. 3 & 10, and the Northeast Quarter of Section No. 15, in Township No. 14, N. and in Range No. 3, West, and all said lands being in Oklahoma County, above named: That said lands all have families, with children of school age located thereon, that the said District No. 5, has furnished schools for said children, levied taxes on the said lands and on the people living thereon, and on their property, ever since the date of its organization, and said taxes have been paid to said District No. 5 during all the years of its existence, and with the money so collected has maintained a public school, as by law required. That said District No. 5, has issued bonds, to build a school house in said school district, and has sold the same, and used the money to build a school house in said district, and said bonds are now outstanding and not fully paid. The officers of said School District No. Five are Fred Ellis, who is its Director, and Peter P. Griner, who is its Treasurer, and John F.N. Hardy who is Secretary of said District No. Five.

That School District Number Five, held its annual meeting on July 11th, 1899, and voted a levy of taxes on all of the land and property embraced therein, for school purposes, as by law provided.

Second.

The Fifth Legislative Assembly of the Territory of Oklahoma, passed, and the governor of said Territory, on March 10th, 1899, approved an act creating a school district, out of certain lands located in Oklahoma and Logan Counties, in the Territory of Oklahoma, and the District so attempted to be by said act created, contains and embraces the lands lying in said School District No. Five, as hereinafter described, said act of the legislature being entitled, "An Act Creating a school district out of lands lying in Logan and Oklahoma Counties, in Oklahoma Territory." (Session Laws of Oklahoma, 1899-Page-226.)

Third.

That the County Superintendent of Oklahoma County, Numbered said District, so attempted to be created by said act as No. 83 of Oklahoma County, and the name of said District is now School District Number Eighty-Three, Oklahoma County, Territory of Oklahoma.

Fourth.

On July 11th, 1899, the various persons residing on the lands, in said Legislative act described, met and proceeded to, and did hold a so called school election, and did proceed to organize, and did organize said School District No. 83, as in the said legislative act provided, and elected as officers of said school district the defendants G.M. Thornburg, Director, A.S. Reed, Treasurer, and C.S. Eyar, Secretary of said District, and they are now its officers, and are proceeding to act as such, and said School District Number Eighty three, and its

SUPREME COURT PROCEEDINGS IN VACATION.

so called officers above named, are now proceeding to and exercising the powers of a corporation, without authority of law, to-wit: to act as a school district, and as the officers thereof, and the electors of said so called district No. 83 voted taxes on the lands and property of the people living within said district No. 83, and directed that a school be taught therein during the next school year, and the said defendants, to-wit, the so-called officers of said District No. 5, are proceeding to and will levy taxes on the lands and property in the said district No. 5, and will have the same collected, and will erect and maintain a school in said district and are now proceeding as such officers of said so called District, to do and perform all these corporate acts, as a school district, and to so act as the officers of said corporation. Said School District Number Eighty Three, embraces the following described lands, now embraced in School District Number Five, to-wit: the West Half of Section Six, in Township No. 14, Range No. 2 West, and all of Sections Nos. 1 & 2 and the East Half of Section No. 3, in Township No. 14, Range 3, W, and in Oklahoma County and Territory of Oklahoma, and takes in all the people and children living on said lands, and thereby levies taxes on the lands subject to levy in School District No. Five, and on the other property held on the lands last above described, and the said so called corporation and its said officers, to-wit, School District Number Eighty Three, and the said G.W.Thornburgh, A.S.Reed, and C.S.Eyar, are unlawfully proceeding to do the corporate acts, and to exercise the corporate and official powers herein before named within the lands last above described, and that said School District Number Five and its said officers, to-wit, Fred Ellis, Peter P. Griner, and John F.N.Hardy; and they alone have the legal right to do the said corporate acts and to exercise the said corporate and official powers within the said lands last above described.

Fifth.

That said School District Number Eighty-Three, was not made by any act of any County Superintendent of Schools, nor was it made by any change in the lines of any other school district, nor by any other authority, save and except by the said act of the Territorial Legislative Assembly.

Sixth.

That said School District Number Five, is now maintaining a Public School, and a School House for the use of all persons of scholastic age, in its said district, including those residing on the lands last above described, and the above unlawful acts so done by the defendants herein, are seriously injuring the plaintiff District Number Five, and are preventing its officers from doing their duties in the said lands last described, and towards the people and children living thereon.

Seventh.

The said Acts of District Number Eighty Three, are unlawful and void, for the reason that the said act of the Legislative Assembly of the Territory of Oklahoma, before referred to, which authorizes the organization and creation of said School District Number Eighty Three, and the election of its said officers, and their action, is itself void, as being a special act, and in violation of, and forbidden by the act of the Congress of the United States, approved July 30th, 1886, and entitled "An Act to prohibit the passage of local or Special laws in the Territories of the United States, to limit Territorial indebtedness, and for other purposes." (U.S.Stats at Large, Vol-24, Page 170.)

Eighth.

At the general annual meeting of the electors of School District Number Five, held on July 11th 1899, the electors of said district authorized and directed this action to be brought and prosecuted, and directed that J.L.Brown be employed so to do, and the board of directors of the said School District Number Five, by resolution duly passed made the same order.

Wherefore the Plaintiff, School District Number Five, Oklahoma County, and Territory of Oklahoma, and Fred Ellis, and Peter P. Griner, and John F. N. Hardy, pray that said School District Number Eighty-three Oklahoma County, Territory of Oklahoma, and its said so called officers, to-wit, G.W.Thornburgh and A.S.Reed and C.S.Eyar, be ousted from all corporate power and prohibited from exercising or attempting to exercise the same and from acting as a school district or the officers thereof, and that the plaintiff, School District number

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

Five, Oklahoma County, Territory of Oklahoma, and the officers thereof be permitted to exercise their corporate power and functions as a school district, over the whole of the lands and people lying and living in its district as it existed previous to the passage of said legislative act, and that Plaintiffs have judgment for the costs herein.

J.S.Jenkins & J.L.Brown,

By J.L.Brown,

Attorneys for plaintiffs.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

#892.

JUNE TERM, 1899.

School District No.5 Oklahoma
County, Territory of Oklahoma,
Fred Ellis, Peter P. Griner, and
John F.N.Hardy,
Plaintiffs,

vs.

School District No.83 Oklahoma
County, Territory of Oklahoma,
S.M.Thornburgh, A.S.Reed and C.S.Eyar,
Defendants,

Said defendants, by Lawrence & Huston, their attorneys, jointly and severally demur to the petition or information of plaintiffs filed herein, and for their grounds or causes of demurrer allege:

1. That the court has no jurisdiction of the subject of the action.
2. That the plaintiffs have no legal capacity either jointly or severally to sue in this action, it appearing from said information or petition that in said action the county attorney of said Oklahoma County, or the Attorney General of said Territory are the only authorized persons to sue and maintain said action in the name of the Territory of Oklahoma.
3. That there is a defect of parties plaintiff, in this, that said action should have been brought only in the name of the Territory of Oklahoma, by the county attorney of said Oklahoma County, or by the Attorney General of Oklahoma Territory.
4. That the petition or information of said plaintiffs does not state facts sufficient to constitute a cause of action.

Lawrence & Huston,

Attorneys for Defendants.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

892.

JUNE TERM, 1899.

School District No.5, Oklahoma
County, Territory of Oklahoma;
Fred Ellis, Peter P. Griner and
John F.N.Hardy,
Plaintiffs,

vs.

School District No.83, Oklahoma
County, Territory of Oklahoma;
S.M.Thornburgh, A.S.Reed and C.S.Eyar,
Defendants.

Application of the Territory of Oklahoma, to be made party
plaintiff.

Comes now the Territory of Oklahoma, by Harper S. Cunningham, its Attorney General, and moves the Supreme Court, to allow the Territory of Oklahoma, to become party plaintiff in the above entitled action, and for ground of this motion shows to the court the facts set out in the original petition of the plaintiffs in this action, and the facts set out in the petition of this plaintiff, the Territory of Oklahoma, attached to and made a part of this motion, as showing the interest of the Territory in the matter in litigation in this action.

Harper S. Cunningham,
Attorney General, of Territory.
J.L.Brown of counsel.

SUPREME COURT PROCEEDINGS IN VACATION.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

JUNE TERM, 1899.

#892.

School District No. 5, Oklahoma
County, Territory of Oklahoma;
Fred Ellis, Peter P. Griner, and
John F.N.Hardy, and the Territory,
Plaintiffs,

vs.

School District No. 83, Oklahoma
County, Territory of Oklahoma;
S.M.Thornburgh, A.S.Reed, and
C.S.Eyar,
Defendants.

Petition on Behalf of Territory.

Comes now the Territory of Oklahoma, by Harper S. Cunningham, its Attorney General, and on leave of the court had and by amendment allowed, becomes one of the plaintiffs in this action, and makes the allegations of the petition of School District No. 5, of Oklahoma County, Territory of Oklahoma, now on file in this action, the allegations of this petition, and on the facts so stated,

Prays that School District No. 83, Oklahoma County, Territory of Oklahoma, and the so called officers thereof be ousted from all exercise of corporate functions as a school district, and that its said officers be ousted from the exercise of the functions of school trustees of said District No. 83, and that this plaintiff recover its costs.

Harper S. Cunningham,
Attorney General of the Territory.
and J. L. Brown of counsel.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

#892.

JUNE TERM, 1899.

August 21st, 1899.

School District Number 5, et al,
Plaintiffs,

vs.

School District Number 83, et al,
Defendants.

Dismissal of action.

Comes now the plaintiffs in the above entitled action, now pending in the Supreme Court, of the Territory of Oklahoma, as an original action, and dismiss their action without prejudice, and at the costs of the plaintiffs. Dated August 21st, 1899.

Harper S. Cunningham,
Attorney General.
J.S.Jenkins & J. L. Brown,
Attorneys for plaintiffs.

#892.

School District No.5, Oklahoma County, O.T.
Fred Ellis, Peter P. Griner, and John F.N.Hardy,
Appellants,

vs.

School District No.83, Oklahoma County, O.T.
G.M.Thornburgh, A.S.Reed, and C.S.Eyar,
Appellees.

And now this cause comes on for consideration by the Court upon the motion of plaintiffs to dismiss the appeal herein, without prejudice, and the Court finds that the same should be dismissed.

It is therefore ordered and adjudged by the Court: That the appeal in this cause be, and the same is hereby dismissed without prejudice, at the cost of plaintiffs in error.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

I N T H E S U P R E M E C O U R T O F T H E T E R R I T O R Y O F O K L A H O M A .

In the matter of the appointment
of an assistant to compile, edit, endex
and report the decisions of the Supreme
Court for publication.

O R D E R .

Whereas, By act of the Fourth Legislative Assembly of the Territory of Oklahoma, entitled, "An Act in relation to the publication of the Reports and Decisions of the Supreme Court of the Territory of Oklahoma, and creating a Territorial Library Fund, and for other purposes." Approved March 12, 1897, it is provided that

For the purpose of compiling, indexing, and reporting said Supreme Court decisions for publication as provided by law, the Chief Justice is authorized and empowered to appoint a competent assistant to report, compile, edit, and index said Supreme Court decisions, at a compensation not to exceed \$300.00 per volume, "and

Whereas, there are now on file in the office of the Clerk of this Court for the publication of another volume of said Supreme Court Reports, and which should be published without further delay;

Now, therefore, I, John H. Burford, Chief Justice of the Territory of Oklahoma, by virtue of the authority vested in me as Chief Justice by said Act of the Legislature, do hereby appoint and commission Benj. F. Hegler my assistant to "report, compile, edit and index" the decisions of the Supreme Court of Oklahoma Territory to be contained in Volume Nine of said reports, and fix the compensation of said Benj. F. Hegler, for the services so rendered, at three hundred dollars for said Reports, so reported, edited, compiled, and indexed.

Done at my Chambers, in the City of Guthrie, Territory of Oklahoma, this 13th day of March A.D.1900.

Jno. H. Burford,

I N T H E S U P R E M E C O U R T O F T H E T E R R I T O R Y O F O K L A H O M A .

Chief Justice.

In the matter of the
letting of the contract
for the printing and
publishing of volume No. 8&9
of the Supreme Court Reports
of the Territory of Oklahoma.

And now, to-wit, on this the 13th day of March, A.D.1900, the matter of letting the contract for the publication of Volume Nine, Supreme Court Reports for the Territory of Oklahoma, coming on to be heard by me, at Chambers in the City of Guthrie.

And it appearing from the proofs on file that proper and sufficient notice by publication has heretofore been had, as provided by Section 4, of Chapter 75, of the laws of Oklahoma, and which said Chapter is entitled, "An Act in relation to the publication of the reports and decisions of the Supreme Court of the Territory of Oklahoma, and creating a Territorial Library Fund;" which said publication notice, together with proof of publication thereto attached are made a part of this order and filed therewith, and separately designated "A" and "B".

(First published in the Oklahoma State Capital January 6, 1900.)

N O T I C E .

"A" The undersigned will receive sealed proposals until 10 o'clock, a.m., Monday, January 22, 1900, for printing, binding and delivering one thousand volumes each of Volumes 8 and 9, Oklahoma Reports. The work to be done and the reports and plates delivered and paid for as provided in chapter 75, Statutes of Oklahoma, 1893. Specifications will be furnished prospective bidders on application to the clerk of the supreme court. The right is reserved to reject any and all bids. Separate bids must be made for each volume.

Jno. H. Burford,
Chief Justice Supreme
Court.

SUPREME COURT PROCEEDINGS IN VACATION.

TERRITORY OF OKLAHOMA, LOGAN COUNTY, SS.

"A" F. H. Greer, Mgr., being first duly sworn, deposeth and saith that he is printer of the Oklahoma State Capital, a _____ newspaper printed and published in Logan County, Territory of Oklahoma, and that a notice, of which a true copy is hereto attached, was published in the regular and entire issue of each number of said Oklahoma State Capital for 3 consecutive weeks, the first publication being made, as aforesaid, on the 6th day of Jan. A.D., 1900, and the last on the 20, day of Jan., A.D., 1900.

F.H.Greer, Mgr.

(First published in the Daily Leader January 6, 1900.)

NOTICE.

"A". The undersigned will receive sealed proposals until 10 o'clock a.m., Monday, January 22, 1900, for printing, binding and delivering one thousand volumes each, of volumes 8 and 9, Oklahoma reports. The work to be done and the reports and plates delivered and paid for as provided in chapter 75, statutes of Oklahoma, 1893. Specifications will be furnished prospective bidders on applications to the clerk of the supreme court. The right is reserved to reject any or all bids. Separate bids must be made for each volume.

Jno. H. Burford.
Chief Justice Supreme
Court.

TERRITORY OF OKLAHOMA, LOGAN COUNTY, SS.

C. L. Brengle of lawful age, being first duly sworn, deposeth and sayeth that he is Business Manager of The Guthrie Leader, a newspaper printed and published in Logan County, Territory of Oklahoma, and that a notice, of which a true copy is hereto attached, was published in the regular and entire issue of each number of said paper for 3 consecutive times, the first publication being made as aforesaid on the 6th day of Jany., A.D.1900, and the last on the 18th day of Jany., A.D., 1900.

C.S.Brengle.

And it further appearing that there is on file and has been received as bid for the publication of said reports the following proposition to publish said report, which said proposition is all of the bids received by me, as Chief Justice, or by the Clerk of the Supreme Court for the publication of Volume nine, and which said bid is in words and figures as follows, to-wit:

Guthrie, Okla., Jan. 22, 1900.

Hon. John H. Burford,
Guthrie, Okla.,

Dear Sir:-

We will print, bind and deliver one thousand volumes of Vol. 9 supreme court reports, territory of Oklahoma, and furnish the stereotype plates and matrices of the same, according to the specifications on file in the Supreme Court Clerk's office and in duplicate of Vol. 7 of said supreme court reports, for the sum of three thousand dollars (\$3000) payable in the warrants of Oklahoma Territory.

Enclosed find check for \$50, as guarantee of good faith.

This bid is made in compliance with published legal notice attached hereto.

Yours very truly,

STATE CAPITAL PRINTING CO.

F. H. Greer, Manager.

And upon examination of said bid, I find that the same is in compliance with section four, of chapter seventy-five, supra, and that the bid of the State Capital Printing Co., a concern doing business in the City of Guthrie, Oklahoma Territory, is the lowest and best bid received for the publication of said Reports, and that by the terms of said bid, the State Capital Printing Co., agrees to enter into a contract whereby it

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

undertakes to publish said reports according to the plans and specifications heretofore on file, and with reference to which, said bid was made for the sum of Three Thousand Dollars, to be paid in Territorial warrants drawn upon the Territorial Treasurer of Oklahoma Territory, as provided by section six of chapter seventy-five supra. And after a consideration of the above and foregoing matters, the bid of the said State Capital Printing Co., for the publication of the said reports is hereby accepted, conditioned that the said State Capital Printing Co., shall enter into a contract, to be executed on this day, whereby the State Capital Printing Co., more particularly undertakes and binds itself to perform the conditions of the bid which is here and now accepted.

IN TESTIMONY WHEREOF, I have hereunto set my hand, this, the 13th day of March, A.D.1900.

Jno. H. Burford,

Chief Justice of the Supreme Court
of the Territory of Oklahoma.

And now on this 13 day of March, A.D.1900, the matter of the letting of the contract for the publication of Volume nine of the Supreme Court Reports of Oklahoma Territory coming on further to be heard, the successful bidder, the State Capital Printing Co., being present by manager thereof, upon the matter of the said specific contract to be entered into between the said State Capital Printing Co., for the publication of said reports, and the Chief Justice of the Supreme Court, and said parties, after the consideration of said contract, and its terms, each affix their signatures thereto.

And it is ordered that the Clerk of the Supreme Court enter of record the contract so executed, together with all other matters considered in connection therewith.

IN TESTIMONY WHEREOF, I have hereunto set my hand, this, the 13, day of March, 1900.

Jno. H. Burford,

Chief Justice of the Supreme Court
of the Territory of Oklahoma.

TERRITORY OF OKLAHOMA, LOGAN COUNTY.

THIS CONTRACT, Made and entered into this 13th day of March, 1900, by and between John H. Burford, Chief Justice of the Supreme Court of the Territory of Oklahoma, first party, and the State Capital Printing Co., publishers, second party:

WITNESSETH, First: That in pursuance of Section 4, of Chapter 75, Oklahoma Statutes, 1893, the first party hereby contracts with the second party for the publication of 1000 volumes of Volume IX, of the Oklahoma Supreme Court Reports, the said second party being the lowest bidder for publishing the same.

Second: That said reports and each of them shall be printed, bound, and labeled in all respects as stipulated in the specifications hereto attached, marked "Exhibit A" and made a part of this contract, as fully to all intents and purposes as if the same were copied verbatim herein.

Third: That for the publication of the 1000 volumes of said reports as above specified, the second party shall be paid the sum of Three Thousand Dollars, in Territorial warrants, to be drawn and approved as specified in Section 6, of said Chapter 75, when said Reports shall be published and delivered to the Territorial Librarian, after having first been approved and accepted by the first party.

Fourth: It is understood and agreed between the parties hereto that if said printing and binding of said book, or any of said 1000 volumes, in any respect falls short of the specifications above referred to, the first party shall have the right to reject or disapprove one or more of the entire number of said volumes, and in that event, the second party shall receive no pay or compensation whatever from the Territory for said work.

Fifth: That said second party herein agrees to furnish the first party the title page of said volume at the earliest possible date, and other data necessary in order to enable the first party to copyright said volume, as specified that he shall do in Section 5, of said Chapter 75.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

Sixth: That it is understood and agreed that the second party shall make matrices and stereotyped plates of said volumes, and shall properly box the same and deliver them to the Territorial Librarian, at his office in Guthrie, Oklahoma Territory, free of cost, and that said property shall become the property of the Territory of Oklahoma.

Seventh: That it is further understood and agreed between the parties hereto that the second party shall not make more than one set of matrices and stereotyped plates for the publication of said volumes, and will not publish any additional volumes of said Reports in addition to the 1000 volumes, either for his own use, or for the use of any one else, without the permission of the first party, and that if the said second party shall violate this article of this contract in any respect, he shall forfeit to the Territory of Oklahoma the sum of \$2,000 as liquidated damages, and that the same may be recovered in a proper action in the name of the Territory of Oklahoma.

Eighth: That said one thousand copies of Volume Nine shall be published and delivered to the Territorial Librarian by the second party within ninety days from the date of the delivery to said second party of the copy for said Supreme Court Reports.

Witness the hands of the Parties hereto, the day and date first above written.

Jno. H. Burford,
Chief Justice.
State Capital Printing Co.
By F.H. Greer, Manager.

Exhibit "A".

S P E C I F I C A T I O N S .

For Printing, Publishing, and Binding Volume IX, Supreme Court Reports.

PAPER.

The reports shall be printed on extra A. & S.-C, or paper equally as good, white book paper. Size, 25 x 38. Weight, 60 lbs. to ream.

TYPE.

The body of the opinions shall be set in 10 Point Roman type face to measure not less than 14 nor more than 15 ems to the lower case alphabet. Syllabus to be set in "8 Point type," face to measure not less than 14 nor more than 16 ems to the lower case alphabet. All matter except extracts to be leaded with 6-to-pica leads; extracts to be set solid. Indexes to be set in type to correspond with the syllabus. Table of cases in type same size as text of Report. Matrices and stereotype plates to be made by successful bidder and deposited with the Territorial Librarian in accordance with the law of the Territory.

BINDING.

The reports shall be hand sewed, stitched with five (5) stitches and bound in full law sheep, boards to be laced on, and to be labelled in accordance with the provisions of Section 2, Chapter 75, Statutes of Oklahoma of 1893.

Book when complete to contain not less than 750 nor more than 800 pages. Style of composition and typography to be the same as and equal to that of the 6th Oklahoma Reports.

BIDS.

Each bid must be accompanied by a deposit of \$50, as an evidence of good faith, together with a specimen of the quality of paper, and an impression of the type designated in these specifications, and the successful bidder is required to submit proof for revision as the work proceeds, to the person designated by the Chief Justice, to edit said Reports, at the office of the Clerk of the Supreme Court. Bidder to read and correct first proof, before submitting proof sheets to editor of Report, and to submit to editor proof sheets after all corrections, as often as may be necessary to insure accuracy of style, arrangement and typography, and to furnish the editor such proof sheets copies of the syllabi of cases as he may need.

It is understood and agreed that parties making bids for the above printing, publishing, and binding, of Volume IX, of the Supreme Courts of the Territory of Oklahoma, do so with the express provision that if the work of the successful bidder does not agree with the standard as provided in the specifications herein, the work is to be rejected and no compensation allowed.

B. F. Hegler, Clerk of the Supreme Court, will be designated to report, compile, edit, and index said report, and all work must be done under his supervision and inspection, and subject to his approval and acceptance.

The bidder entering into a contract for the performance of said work shall execute a bond with at least two resident sureties in the sum of Three Thousand Dollars, for the completion of said work according to the terms of contract. Said bond and sureties to be approved by the Chief Justice.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

KNOW ALL MEN BY THESE PRESENTS:

That the State Capital Printing Company, as principal, and F. H. Greer and J. W. McNeal as sureties, are held and firmly bound to the Territory of Oklahoma in the penal sum of \$3000, lawful money of the United States, well and truly to be paid.

The condition of this obligation is that the State Capital Printing Company has this day entered into a contract with John H. Burford, as Chief Justice of the Territory of Oklahoma, for the printing, publishing, and delivery of 1000 volumes of Volume IX, of the Reports of the Supreme Court of the Territory of Oklahoma, and for making and delivering matrices and stereotyped plates, and delivering same to the Territorial Librarian of the Territory of Oklahoma; said work to be done and completed as provided in a written contract on file with the Clerk of the Supreme Court of said Territory.

Now, if the said State Capital Printing Company shall well and truly perform all the conditions and requirements of said contract, and deliver said books, plates, and matrices, as provided in said contract, and not violate any of the provisions of the same, this obligation shall be void; otherwise, to be and remain in full force and effect.

IN WITNESS WHEREOF, we have hereunto set our hands this 16th day of March, 1900.

State Capital Printing Company,

By F. H. Greer, Manager.

F. H. Greer,

J. W. McNeal.

ORIGINAL IN THE SUPREME COURT.

#900.

Territory of Oklahoma, ex rel,
Harper S. Cunningham, Attorney
General,

Relator,

vs.

Jas. Brown, as County Clerk of
Greer County, Oklahoma Territory,
Respondent.

Motion and affidavit for Writ of Mandamus.

To Hon. Jno. H. Burford, Chief Justice.

Comes now Harper S. Cunningham the duly appointed, qualified and acting Attorney General of Oklahoma Territory, by the direction of the Governor of the Territory, and shows to the court,

That heretofore, to-wit: on the 19th day of June, A.D. 1899, the same being the third Monday in said month of June, the Territorial Board of equalization of the Territory duly met at the City of Guthrie, in said Territory, pursuant to the provisions of section 1, article 3, chapter 28, of the Session Laws of Oklahoma, 1899, and the abstract of assessment not having been received at said time from all the counties in said Territory, said Board of Equalization adjourned to meet upon notification by the Secretary of said Board; a certified copy of the minutes of the meeting, proceedings and record, of said Board upon said date is hereto attached, made a part hereof and marked "Exhibit A".

That afterwards and on, to-wit: the 17th day of July, 1899, the said Territorial Board of Equalization duly met at said City of Guthrie in pursuance of notification by the secretary of said Board as aforesaid, and in accordance with the aforesaid section one, and then and there proceeded to equalize the value of property in the several counties of said Territory, and did then and there proceeded to and did levy the Territorial Taxes for the year of 1899, as appears by a certified copy of the minutes of the proceedings, and record of said Territorial Board of Equalization hereto attached, made a part hereof and marked "Exhibit B".

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

That afterwards and on to-wit: the 21st day of July, A.D. 1899, S.N. Hopkins, the duly appointed, qualified and acting Auditor of Oklahoma, and Secretary of said Territorial Board of Equalization, did make in writing and transmit to the County Clerk of Greer County, Oklahoma Territory, at Mangum the County Seat of said County, a statement of the rate of taxation required in said county for the territorial taxes as directed to be levied and collected of said Territorial Board of Equalization as aforesaid, a certified copy of which said notice in writing is hereto attached, made a part hereof and marked "Exhibit C".

That thereafter and on to-wit: _____ day of July, A.D. 1899, and within ten days after said 21st day of July, 1899, the said written notice was duly received by the said Clerk of Greer County.

That heretofore and on, to-wit: the 21st day of July, A.D. 1899, the same being the third Friday in July, the Board of County Commissioners of said Greer County duly met at said County seat of said Greer County for the purpose of levying the county and territorial taxes in the aforesaid county; that at the time of the meeting of said Board of County Commissioners the aforesaid written notice and statement of Territorial Taxes had not been received by the said County Clerk of said Greer County, and on said last named date said Board of County Commissioners proceeded to and did levy on the taxable property in said county of Greer a general territorial tax of two mills.

That on said 21st day of July the said Board of County Commissioners of said Greer County, neglected, failed and refused to adjourn the meeting of said Board of Commissioners for the purpose of levying the territorial taxes for the period of ten days therefrom or for any other period, and until said statement of Territorial taxes should be received by said County Clerk.

That Jas. Brown is the duly elected, qualified and acting County Clerk of said Greer County. That heretofore and on to-wit: the 3rd day of August, A.D. 1899, the said County Clerk of Greer County duly notified in writing the said Territorial Auditor of the fact of such levy of Territorial taxes by said Board of County Commissioners of said County, and then and there refused to extend the territorial taxes so levied as aforesaid by the Territorial Board of Equalization upon the tax rolls of the county of Greer and still fails, neglects and refuses to extend same as required by law and is threatening to and will extend upon such tax rolls of said county the Territorial tax as levied by the said Board of County Commissioners unless otherwise ordered by the court. That the said written notification from the said County Clerk to said Territorial Auditor is hereto attached, made a part hereof and marked "Exhibit D".

That no valid excuse for the aforesaid failure and refusal of said County Clerk to extend upon the tax rolls of said county the Territorial taxes as directed in the written notice of said Territorial Auditor can be given.

That heretofore and on, to-wit: the 8th day of August, 1899, the above named relator duly notified the aforesaid County Clerk of the fact that relator would on the 15th day of August, 1899, file this application in the Supreme Court of said Territory, and at the City of Guthrie on said last named day ask the Hon. Jno. H. Burford, Chief Justice of said Territory, to grant a peremptory writ of mandamus in said action. That attached to said notice of this application was a true copy hereof. Said notice of this application was on said 8th day of August, 1899, duly forwarded to said county clerk of Greer county by registered mail, as appears by the registry receipt hereto attached, made a part hereof and marked "Exhibit E".

That heretofore and on, to-wit: the ____ day of August, 1899, a copy of said notice and this application was received by said county clerk as appear by the receipt of said clerk hereto attached, made a part hereof and marked "Exhibit F".

A copy of said notice to said clerk of this application is hereto attached, made a part hereof and marked "Exhibit G."

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

WHEREFORE, premises considered, relator asks that a peremptory writ of mandamus in the first instance issue herein, commanding the said Jas. Brown, as county clerk of said county to extend upon the tax rolls of said Greer County for the year 1899, the Territorial taxes as set forth in the aforesaid notice of the Auditor of said Territory and Secretary of the Territorial Board of Equalization to said County Clerk, as appears by "Exhibit C" hereto attached, and for all other proper relief.

Filed August 15, 1899.

Benj. F. Hegler, Clerk Supreme Court.

Harper S. Cunningham,
Attorney General, Oklahoma
Territory.

Territory of Oklahoma, Logan County: ss.

Harper S. Cunningham, Attorney General of the Territory of Oklahoma, on his oath says, that he is the relator in the above entitled proceeding, that he has read the above and foregoing motion, and knows the contents thereof, and that the statements therein contained are true.

Harper S. Cunningham.

Sworn to and Subscribed before me this 15th day of August, 1899.

Albina Stevens,
Notary Public,
(Seal) My Commission Expires April 12, 1901.

Guthrie, Okla., June 19, 1899.

"Exhibit A"

Pursuant to the provisions of section 1, article 3, chapter 28, session laws of Oklahoma, 1899, the territorial board of equalization for the territory of Oklahoma met in the Auditor's office in the city of Guthrie, Monday, June 19, 1899.

The following members were present: Territorial Secretary, W. M. Jenkins, and Auditor, S.N. Hopkins, secretary of the board.

The abstracts of assessment not having been received from all the counties, the board adjourned to meet when notified by the secretary of the board that all abstracts of assessment were filed as provided by law.

S. N. Hopkins,

Territorial Auditor and Secretary, Territorial
Board of Equalization.

Guthrie, Okla., July 17, 1899.

"Exhibit B"

The territorial board of equalization convened in the territorial auditor's office pursuant to adjournment.

Present: Governor C. M. Barnes, president of the board; Territorial Secretary W. M. Jenkins; Attorney-General Harper S. Cunningham; and Deputy Auditor E.P. McCabe, acting for the auditor, secretary of the board.

On motion the following levies were made: for general revenue, three mills on the dollar valuation; for the erection and support of the territorial normal school at Edmond, one-half mill on the dollar valuation; for the support of the territorial normal school at Alva, one-half mill on the dollar valuation; for the erection and support of the Oklahoma university at Norman, one-half mill on the dollar valuation; for the support of the agricultural and mechanical college at Stillwater, one-tenth of a mill on the dollar valuation; for the support of the colored agricultural and normal university at Langston, one-tenth of a mill on the dollar valuation; for the support of the school for the blind, one-tenth of a mill on the dollar valuation; and for the support of the school for the deaf and dumb, two-fifths of a mill on the dollar valuation.

After a careful examination of the computations made by the secretary of the board, it was found necessary to make the following changes in the county returns reported to the board with the exception of moneys and credits, and on motion such changes were ordered to be made, to-wit:

SUPREME COURT PROCEEDINGS IN VACATION.

County.	Per. Cent Raise.	Per. Cent Decrease.	County.	Per. Cent Raise.	Per. Cent Decrease.
Beaver-----	7		Lincoln-----		4
Blaine-----	2		Logan-----	00	00
Canadian-----	5		Noble-----		4
Cleveland-----	3		Oklahoma-----	00	00
Custer-----	14		Pawnee-----		10
Dewey-----	10		Payne-----		2
Day-----	3		Pottawatomie-----	2	
Garfield-----	4		Roger Mills-----	2	
Grant-----	9		Washita-----	12	
Greer-----	15		Woods-----	1	
Kay-----	00	00	Woodward-----		13
Kingfisher-----	1				

As provided by section 66, chapter 15, session laws of Oklahoma, 1897, the board finds that the valuation of Woodward county for the year 1899, is equal to and exceeds that of Noble county, which county has a population of more than ten thousand; and on motion the secretary of the board was ordered to prepare and transmit to the board of county commissioners of said county of Woodward the certificate provided for in said section.

On motion the secretary of the board was directed to certify to each of the counties of the territory its respective valuation together with the levy for territorial purposes as herein made.

The secretary was further directed and authorized to correct any error or omission that may have occurred in the work of the board.

Its work being finished, the board adjourned sine die.

S. N. Hopkins,

Territorial Auditor and Secretary Territorial
Board of Equalization.

Territory of Oklahoma,)
Logan County.) ss.

I hereby certify that the foregoing is a true and correct copy of the original record now on file in my office.

In testimony whereof, I have this 4th day of August, 1899, at the city of Guthrie, set my hand and affixed my official seal.

(Seal) S. N. Hopkins,
Auditor.
By E. P. McCabe, Deputy.

TERRITORY OF OKLAHOMA.

"Exhibit C"

To the County Clerk of Greer County, Oklahoma Territory:

Office of the Territorial
Auditor. Guthrie, O.T.
July 21, 1899.

I HEREBY CERTIFY, That at a meeting of the Territorial Board of Equalization, held at Guthrie, for the year 1899, the following changes were made in Assessed Valuation, and the following amount of taxes, for the purposes named, was apportioned to the County of Greer to be assessed upon the taxable property of said County for the year 1899, to-wit:

Total Valuation as reported by County Clerk, less moneys & credits,	\$ 1394551
Increase 15% by Territorial Board of Equalization-----	209183
Total Valuation of moneys and credits as reported by Co. Clerk.-----	18670
Grand total Valuation of County-----	1622404

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

APPORTIONMENT OF TAXES.

For General Territorial Tax-----	5	Mills on the dollar-----	\$-----
For the Erection and Support of a Territorial Normal School at Edmond-----	5	Mills on the dollar-----	\$-----
For the Support of a Territorial Normal School at Alva-----	5	Mills on the dollar-----	\$-----
For the Erection and Support of the Oklahoma University at Norman-----	5	Mills on the dollar-----	\$-----
For the Support of the Agricultural and Mechanical College at Stillwater-----	1	Mill on the dollar-----	\$-----
For the Support of the Colored Agricultural and Normal University at Langston-----	1	Mill on the dollar-----	\$-----
For the Support of the School for the Blind-----	1	Mill on the Dollar-----	\$-----
For the Support of the School for the Deaf and Dumb-----	4	Mills on the dollar-----	\$-----
For Bond Interest Fund-----	0	Mills on the dollar-----	\$-----
For Board of Education Fund-----	0	Mills on the dollar-----	\$-----
Total-----	5,2		\$-----

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of my office this
21st day of July, 1899.

S. N. Hopkins,
Auditor of Territory, and Secretary
Territorial Board of Education.

I, S. N. Hopkins, Auditor in and for Oklahoma Territory, hereby certify that the foregoing is a true,
and correct copy of the original notice forwarded to the county clerk of Greer County.

Witness my hand and official seal, this 7th day of August, A.D.1899.

S.N.Hopkins, Auditor, by E.P.McCabe, deputy.

"Exhibit D"

COUNTY CLERK GREER COUNTY OKLAHOMA.

Jas. Brown, County Clerk.

Mangum, Okla., 8/3, 1899.

Hon. S. N. Hopkins, Auditor,

Guthrie, Okla.,

Dear Sir:-

Under Sec. 4,, Chap. 43, Page 218 of the Session Laws of 1895, our Co. Comr's on the 21st day of July 1899 levied 2 mills for the General Ter. Tax. Please let me know what your opinion is in this matter. This you know should be legal before extending the tax.

Yours truly,

Jas. Brown.
Co. Clerk.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

Territory of Oklahoma, ex rel,
Harper S. Cunningham, Attorney General,
Relator,

vs.

Jas. Brown, as County Clerk of Greer
County, Oklahoma,
Respondent.

NOTICE.

"Exhibit G" To Jas. Brown, as County Clerk of Greer County, Oklahoma.

Sir:-

You are hereby notified that on the 15th day of August, A.D.1899, the above named relator will file in the Supreme Court of the Territory of Oklahoma his application for a peremptory writ of mandamus, a copy of which motion and affidavit is hereto attached made a part hereof and marked "Exhibit A"

That on said day said relator will present said application to Hon. Jno. H. Burford, as Chief Justice of the Territory of Oklahoma, at Chambers in the City of Guthrie, O.T. and at ten o'clock on said day, and ask

SUPREME COURT PROCEEDINGS IN VACATION.

that a peremptory writ of mandamus then and there issue upon said application, at which time you can be present and object if you so desire and show cause why such writ should not issue.

Harper S. Cunningham,
Attorney General.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

Territory of Oklahoma, ex rel,
Harper S. Cunningham, Attorney
General,

Relator,

vs.

James Brown, as County Clerk
of Greer County, O.T.
Respondent.

Peremptory Writ of Mandamus.

Territory of Oklahoma to James Brown, as County Clerk of Greer County: Greeting.

Whereas, upon motion and affidavit of the relator in the above entitled action it has been duly made to appear to me Jno. H. Burford, as Chief Justice of the Territory of Oklahoma, that James Brown is the duly elected, qualified and acting county clerk of Greer county, Oklahoma Territory; that heretofore, and on to-wit: the 17th day of July, A.D.1899, the Territorial Board of Equalization of said Territory duly met at the City of Guthrie in said Territory, pursuant to adjournment, and then and there proceeded to and did levy upon the taxable property within said Territory the following territorial taxes for the year 1899, to-wit:

For General Territorial tax,	3. mills on the dollar.
For the Erection and support of a Territorial Normal School at Edmond,	.5 mills on the dollar.
For the Support of a Territorial Normal School at Alva,	.5 mills on the dollar.
For the erection and support of the Oklahoma University at Norman,	.5 mills on the dollar.
For the support of the Agricultural and Mechanical College at Stillwater,	.1 mill on the dollar.
For the support of the Colored Agricultural and Normal University at Langston,	.1 mill on the dollar.
For the support of the School for the Blind,	.1 mill on the dollar.
For the support of the School for the Deaf and Dumb,	.4 mills on the dollar.
Total-----	5.2 mills on the dollar.

That afterwards and on, to-wit, the 21st day of July, A.D.1899, S.N.Hopkins, the duly appointed, qualified and acting Auditor of said Territory, duly notified in writing the aforesaid Levy of Territorial Taxes to the aforesaid clerk of Greer County, that afterwards, to-wit, on the ____ day of July, and within ten days from said 21st day of July, 1899, said notification was duly received by said County Clerk of Greer County; that heretofore and on, to-wit, the 21st day of July, A.D.1899, the board of county commissioners of said Greer County, without authority of law, did make an order levying a general territorial tax of two mills on the dollar valuation of taxable property in the said Greer County; and

Whereas, it appears that the said James Brown, county clerk, now fails and refuses to extend upon the tax rolls the aforesaid levy of taxes as made by said Territorial Board of Equalization, and it is apparent that no valid excuse can be given for not so extending said taxes upon said tax rolls,

Now therefore, I being willing that justice be fully and speedily done in the premises, hereby order and direct that you the said James Brown as county clerk of said Greer County do, forthwith, extend upon the tax rolls of said Greer county the several territorial taxes as levied by the Territorial board of Equalization of said Territory and as above stated and that you do not extend upon said tax rolls of said Greer County the said general territorial tax of two mills as levied by said board of county commissioners.

Fail not hereof, under pains and penalties of the law.

Witness my hand at Guthrie, O. T. this 23rd day of August, A.D.1899.

Jno. H. Burford,

Chief Justice Oklahoma.

SUPREME COURT PROCEEDINGS IN VACATION.

Office of County Clerk Greer County Oklahoma.

Jas. Brown, County Clerk.

Mangum, Okla., August 31, 1899.

To Hon. Jno. H. Burford, Chief Justice,
Guthrie, O. T.

I, Jas. Brown, County Clerk in and for Greer County, Okla., do hereby represent to your Honor that on the 25th inst. I received your order commanding me to extend the rate of 5.2 mills Territorial tax levied by the Ter. Board of Equalization, instead of the 2 mills levied by the Board of Co. Comr's of said Greer Co., and that I am now complying with said order, by extending the 5.2 mills levied by said Ter. Board of Equalization.

Very respectfully,
Jas. Brown,
Co. Clerk.

And now on this 4th day of January, 1900, comes Harper S. Cunningham, Attorney General, and shows to the Court that defendant in error has complied with the order herein, and asks judgment for costs.

It is therefore hereby ordered by the Court: That the costs of this action, in the sum of \$_____, be adjudged against the said Jas. Brown, as County Clerk of Greer County.

ORIGINAL IN THE SUPREME COURT, OF THE TERRITORY OF OKLAHOMA;

#901.

Territory of Oklahoma, ex rel,
Harper S. Cunningham, Attorney
General,

Relator,

vs.

Fred C. Tracy, as County Clerk
of Beaver County, Oklahoma
Territory,
Respondent.

Motion and affidavit for Writ of Mandamus.

To Hon. Jno. H. Burford, Chief Justice,

Comes now Harper S. Cunningham the duly appointed, qualified and acting Attorney General of Oklahoma Territory, by the direction of the Governor of the Territory, and shows to the court.

That heretofore, to-wit, on the 19th day of June A.D. 1899, the same being the third Monday in said month of June, the Territorial Board of Equalization of the Territory, duly met at the City of Guthrie, in said Territory, pursuant to the provisions of section 1, article 3, chapter 28, of the Session Laws of Oklahoma, 1899, and the abstract of assessment not having been received at said time from all the counties in said Territory, said Board of Equalization adjourned to meet upon notification by the Secretary of said Board; a certified copy of the minutes of the meeting, proceedings and record of said Board upon said date is hereto attached, made a part hereof and marked "Exhibit A".

That afterwards and on, to-wit: the 17th day of July, 1899, the said Territorial Board of Equalization duly met at said City of Guthrie, in pursuance of notification by the secretary of said Board as aforesaid and in accordance with the aforesaid section one, and then and there proceeded to equalize the value of property in the several counties of said Territory and did then and there proceed to and did levy the Territorial Taxes for the year of 1899, as appears by a certified copy of the minutes of the proceedings and record of said Territorial Board of Equalization hereto attached, made a part hereof and marked "Exhibit B".

That afterwards, and on to-wit: the 21st day of July, A.D. 1899, S.N. Hopkins, the duly appointed, qualified and acting Auditor of Oklahoma and Secretary of said Territorial Board of Equalization, did make in

SUPREME COURT PROCEEDINGS IN VACATION.

writing and transmit to the County Clerk of Beaver County, Oklahoma Territory, at Beaver the County seat of said County a statement of the rate of taxation required in said county for the territorial taxes as directed to be levied and collected of said Territorial Board of Equalization as aforesaid, a certified copy of which said notice in writing is hereto attached, made a part hereof and marked "Exhibit C".

That thereafter and on to-wit: 27th day of July, A.D. 1899, and within ten days after said 21st day of July, 1899, the said written notice was duly received by the said Clerk of Beaver County.

That heretofore and on, to-wit: the 21st day of July, A.D. 1899, the same being the third Friday in July, the Board of County Commissioners of said Beaver County duly met at said County seat of said Beaver County for the purpose of levying the county and territorial taxes in the aforesaid county; that at the time of the meeting of said Board of County Commissioners the aforesaid written notice and statement of Territorial Taxes had not been received by the said County Clerk of said Beaver County, and on said last named date said Board of County Commissioners proceeded to and did levy on the taxable property in said county of Beaver a general territorial tax of two mills.

That on said 21st day of July the said Board of County Commissioners of said Beaver County neglected, failed and refused to adjourn the meeting of said Board of Commissioners for the purpose of levying the Territorial Taxes for the period of ten days therefrom or for any other period, and until said statement of Territorial taxes should be received by said County Clerk.

That Fred C. Tracy is the duly elected, qualified and acting County Clerk of said Beaver County. That heretofore and on, to-wit: the 27th day of July, A.D. 1899, the said County Clerk of Beaver County duly notified in writing the said Territorial Auditor of the fact of such levy of Territorial taxes by said Board of County Commissioners of said County and then and there refused to extend the Territorial taxes so levied as aforesaid by the Territorial Board of Equalization upon the tax rolls of the county of Beaver and still fails, neglects and refuses to extend same as required by law, and is threatening to and will extend upon such tax rolls of said county the Territorial tax as levied by the said Board of County Commissioners unless otherwise ordered by the court. That the said written notification from the said County Clerk to said Territorial Auditor is hereto attached, made a part hereof and marked "Exhibit D".

That no valid excuse for the aforesaid failure and refusal of said County Clerk to extend upon the tax rolls of said county the Territorial taxes as directed in the written notice of said Territorial Auditor can be given.

That heretofore and on, to-wit: the 7th day of August, 1899, the above named relator duly notified the aforesaid County Clerk of the fact that relator would on the 15th day of August, 1899, file this application in the Supreme Court of said Territory, and at the City of Guthrie on said last named day ask the Hon. Jno. H. Burford, Chief Justice of said Territory, to grant a peremptory writ of mandamus in said action. That attached to said notice of this application was a true copy hereof. Said notice of this application was on said 8th day of August, 1899, duly forwarded to said county clerk of Beaver county, by registered mail as appears by the registry receipt hereto attached, made a part hereof and marked "Exhibit E".

That heretofore and on, to-wit: the ____ day of August, 1899, a copy of said notice and this application was received by said county clerk as appears by the receipt of said clerk hereto attached, made a part hereof and marked "Exhibit F".

A copy of said notice to said clerk of this application is hereto attached, made a part hereof and marked "Exhibit G".

WHEREFORE, premises considered, relator asks that a peremptory writ of mandamus in the first instance issue herein commanding the said Fred C. Tracy as county clerk of said county to extend upon the tax rolls of said Beaver County for the year 1899, the Territorial taxes as set forth in the aforesaid notice of the Auditor of said Territory and Secretary of the Territorial Board of Equalization to said County Clerk as

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N.

appears by "Exhibit C" hereto attached and for all other proper relief.

Harper S. Cunningham,
Attorney General, Oklahoma Territory.

Territory of Oklahoma,)
) SS.
 Logan County.)

Harper S. Cunningham, Attorney General, of the Territory of Oklahoma, on his oath says, that he is the relator in the above entitled proceeding, that he has read the above and foregoing motion and knows the contents thereof, and that the statements therein contained are true.

Harper S. Cunningham.

Sworn to and Subscribed before me this 15th day of August, 1899.

(Seal) Albina Stevens, Notary Public.
My Commission Expires April 12, 1901.

Guthrie, Okla., June 19, 1899.

"Exhibit A"

Pursuant to the provisions of section 1, article 3, chapter 28, session laws of Oklahoma, 1899, the territorial board of equalization for the territory of Oklahoma met in the Auditor's office in the city of Guthrie, Monday, June 19, 1899.

The following members were present: Territorial Secretary W.H.Jenkins, and Auditor S.N.Hopkins, secretary of the board.

The abstracts of assessment not having been received from all the counties, the board adjourned to meet when notified by the secretary of the board that all abstracts of assessment were filed as provided by law.

S.N.Hopkins,
Territorial Auditor and
Secretary Territorial Board
of Equalization.

Guthrie, Okla. July 17, 1899.

***Exhibit B:**

The territorial board of equalization convened in the Territorial Auditor's office pursuant to adjournment.

Present: Governor C. M. Barnes, president of the board; Territorial Secretary W.H.Jenkins; Attorney General Harper S. Cunningham; and Deputy Auditor E.P.McCabe, acting for the auditor, secretary of the board.

On motion the following levies were made; for general revenue, three mills on the dollar valuation; for the erection and support of the territorial normal school at Edmond, one-half mill on the dollar valuation; for the support of the territorial normal school at Alva, one-half mill on the dollar valuation; for the erection and support of the Oklahoma university at Norman, one-half mill on the dollar valuation; for the support of the agricultural and mechanical college at Stillwater, one tenth of a mill on the dollar valuation; for the support of the colored agricultural and normal university at Langston, one-tenth of a mill on the dollar valuation; for the support of the school for the blind, one tenth of a mill on the dollar valuation; ~~xxx~~ for the support of the school for the blind one tenth of a mill on the dollar valuation; and for the support of the school for the deaf and dumb, two fifths of a mill on the dollar valuation.

After a careful examination of the computations made by the secretary of the board, it was found necessary to make the following changes in the county returns reported to the board with the exception of mon-
eys and credits, and on motion such changes were ordered to be made, to-wit:

County	Per.cent raise.	Per.cent decrease.	County	Per.cent raise.	Per.cent decrease.
Beaver-----	7		Greer-----	15	
Blaine-----	2		Kay-----	00	00
Canadian-----		5	Kingfisher-----	1	
Cleveland-----	3		Lincoln-----		4
Custer-----	14		Logan-----	00	00
Dewey-----		10	Noble-----		4
Day-----		3	Oklahoma-----	00	00
Garfield-----	4		Pawnee-----		10
Grant-----	9		Payne-----		2

SUPREME COURT PROCEEDINGS IN VACATION.

County	Per.cent raise.	Per.cent decrease.	County	Per.cent raise.	Per.cent decrease.
Pottawatomie-----	2		Woods-----	1	
Roger Mills-----	2		Woodward-----		13
Washita-----	12				

As provided by section 66, chapter 15, session laws of Oklahoma, 1897, the board finds that the valuation of Woodward county for the year 1899, is equal to and exceeds that of Noble county, which county has a population of more than ten thousand; and on motion the secretary of the board was ordered to prepare and transmit to the board of county commissioners of said county of Woodward the certificate provided for in said section.

On motion the secretary of the board was directed to certify to each of the counties of the Territory its respective valuation together with the levy for territorial purposes as herein made.

The secretary was further directed and authorized to correct any error or omission that may have occurred in the work of the board.

Its work being finished, the board adjourned sine die.

S.N.Hopkins.

Territorial Auditor and Secretary
Territorial Board of Equalization.

TERRITORY OF OKLAHOMA,)
) ss.
Logan County.)

I hereby certify that the foregoing is a true and correct copy of the original record now on file in my office.

In Testimony whereof, I have this 4th day of August 1899, at the city of Guthrie, set my hand and affixed my official seal.

S.N.Hopkins.

Auditor.

(Seal) By E.P.McCabe,

Deputy.

TERRITORY OF OKLAHOMA.

Office of Territorial Auditor.

Guthrie, O.T., July 21, 1899.

"Exhibit C"

To the County Clerk of Beaver county, Oklahoma Territory:

I HEREBY CERTIFY, That at a meeting of the Territorial Board of Equalization, held at Guthrie, for the year 1899, the following changes were made in Assessed Valuation, and the following amount of taxes, for the purposes named, was apportioned to the County of Beaver to be assessed upon the taxable property of said County for the year 1899, to-wit:

Total Valuation as reported by County Clerk less moneys & credits.	\$	1236544
Increase 7½ per cent by Territorial Board of Equalization.		86558
Total Valuation of moneys and credits as reported by Co.Clerk.		15980
Railroad property Assessed by Board of Railroad Assessors.		2185
Grand Total Valuation of County.		1341267

APPORTIONMENT OF TAXES.

For General Territorial Tax-----	Mills on the dollar 3	\$	_____
For the Erection and Support of a Territorial Normal School at Edmond-----	Mills on the dollar.5	\$	_____
For the Support of a Territorial normal School at Alva.-----	Mills on the dollar.5	\$	_____
For the Erection and Support of the Oklahoma University at Norman-----	Mills on the dollar.5	\$	_____
For the Support of the Agricultural and Mechanical College at Stillwater-----	Mills on the dollar.1	\$	_____
For the Support of the Colored Agricultural and Normal University at Langston---	Mills on the dollar.1	\$	_____

SUPREME COURT PROCEEDINGS IN VACATION.

For the Support of the School for the Blind.	-----Mills on the dollar.1 \$
For the Support of the School for the Deaf and Dumb.	-----Mills on the dollar.4 \$
For Bond Interest Fund.	-----Mills on the dollar.0 \$
For Board of Education Fund.	-----Mills on the dollar.0 \$
Total	-----5.2 \$

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of my office this 21st day of July, 1899.

S. N. Hopkins,
Auditor of Territory, and Secretary Territorial Board of Equalization.

I, S. N. Hopkins, Auditor in and for Oklahoma Territory, hereby certify that the foregoing is a true and correct copy of the Original notice forwarded to the county clerk of Beaver county.

Witness my hand and official seal this 5th day of August, A.D.1899.

S.N.Hopkins, Auditor,
By E.P.McCabe, Deputy.

Beaver, Oklahoma, July 27th 1899.

Hon. S. N. Hopkins, Auditor,

Guthrie, Okla.

"Exhibit D".

Dear Sir:-

I am in receipt of your statement of the equalization and territorial tax levy for 1899.

The Board of County Commissioners met here on Friday July 21st and having no statement of the territorial levy, before adjourning they voted a levy of two mills on the dollar for territorial purposes, and adjourned.

I do not think that I have any authority to enter the territorial tax at a higher rate than that voted by the Commissioners, unless their action is declared to be illegal.

Yours very truly,
F. Tracy, Co. Clerk.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

#901.

Territory of Oklahoma, ex rel,
Harper S. Cunningham, Attorney
General,

Relator,

vs.

Fred C. Tracy, as County Clerk of
Beaver County, Oklahoma,
Respondent.

Exhibit "G"

N O T I C E.

To County Clerk of Beaver County, Oklahoma.

Sir:-

You are hereby notified that on the 15th day of August, A.D.1899, the above named relator will file in the Supreme Court of the Territory of Oklahoma his application for a peremptory writ of mandamus, a copy of which motion and affidavit is hereto attached made a part hereof and marked Exhibit "A".

That on said day said relator will present said application to Hon. Jno. H. Burford, as Chief Justice of the Territory of Oklahoma, at Chambers in the City of Guthrie, O.T. and at ten o'clock on said day, and ask that a peremptory writ of mandamus then and there issue upon said application, at which time you can be present and object if you so desire and show cause why such writ should not issue.

Harper S. Cunningham,
Attorney General.

SUPREME COURT PROCEEDINGS IN VACATION.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

#901.

Territory of Oklahoma, ex rel,
Harper S. Cunningham, as
Attorney General,
Relator,

vs.

ANSWER.

Fred C. Tracy, as County Clerk
of Beaver County, Oklahoma
Territory,
Respondent.

Comes now the defendant Fred C. Tracy, as county clerk of Beaver County, Oklahoma Territory and for his answer to the motion and affidavit for writ of mandamus in the above entitled cause, says that he is and has been during all the times stated in plaintiff's motion and affidavit, the county clerk of Beaver County, Oklahoma Territory.

That on the 21st day of July, 1899, the Board of County Commissioners of Beaver County, Oklahoma Territory being in regular session as by law provided and directed, did take certain proceedings and make certain orders as appears upon the record of the proceedings of said board of county commissioners in the office of the county clerk of Beaver County, Oklahoma Territory, a true and certified copy of which is hereto attached, marked Exhibit "A" and hereby made a part of this answer.

That on said 21st day of July, 1899, as appears from said proceedings, the board of county commissioners did make, as required by law, a levy of taxes for the year 1899 for county purposes. That at that time and up to the time of adjournment of said board, there had been no levy received from the board of equalization or from the Territorial Auditor, of the Territory of Oklahoma by this defendant as county clerk of Beaver County, Oklahoma Territory, or by the board of county commissioners of Beaver County, Oklahoma Territory, and there being no certificate of any levy having been made by said Territorial board of equalization or by said Auditor of the Territory of Oklahoma at the time the said board of county commissioners completed their business on said 21st day of July, 1899, and at the time they had completed the tax levy for Beaver County, Oklahoma Territory for the year 1899, as provided by law, the said board of county commissioners did then proceed, in accordance with section four of article two, of chapter forty-three of the session laws of the Territory of Oklahoma of 1895, in such cases made and provided, as said section commands the board of county commissioners of the several counties of the Territory of Oklahoma in such cases to do, to levy a general territorial tax of two mills on the dollar valuation of the property assessed for taxation in said county, and said board did then finally adjourn, and this defendant further says that said board of county commissioners has not been in session since that time and has not made any levy of taxes for territorial purposes other than that made on said 21st day of July 1899, as appears by said Exhibit "A", and that said order of said board of county commissioners making said levy for territorial purposes has been in no way appealed from or vacated or set aside, but still stands in full force and effect and has the full force and effect given it by law as a part of the orders and proceedings of said board of county commissioners of Beaver County, Oklahoma Territory.

And the said Board of County Commissioners of Beaver County, Oklahoma Territory have not been by any order of court commanded to meet and to make a levy of taxes for territorial purposes in accordance with the amount fixed by the territorial board of equalization or territorial Auditor, of the Territory of Oklahoma, or to in any way cut down the rate of territorial taxes to be levied for the current year as fixed by the territorial board of equalization, as shown by plaintiff's petition, in addition to that levied by said Board of County Commissioners, and this defendant therefore says that the writ of mandamus prayed for should not issue, the territorial tax having been levied by said board of county commissioners as provided by the statutes of the Territory of Oklahoma in the absence of the receipt of any tax levy or rate of taxation being fixed by the territorial board of equalization, nor was said board commanded to meet and act, under the laws of the Territory

SUPREME COURT PROCEEDINGS IN VACATION.

of Oklahoma, and defendant further says that said writ ought further not to be issued until said levy so made by the board of county commissioners of Beaver County, Oklahoma Territory for territorial purposes has been in some way vacated and set aside upon appeal or other judgment or order of court.

And defendant further says that said writ of mandamus ought further not to be allowed because all the necessary parties defendant are not before the court, said board of county commissioners, upon whose order as county clerk this defendant should enter any tax upon the rolls of his county, not being before the court and not being made parties in this cause.

Wherefore the defendant, having fully answered, prays that he be discharged with his costs.

Dale & Bierer,
Attorneys for defendant.

Territory of Oklahoma,)
)ss.
Logan County.)

Fred C. Tracy, being first duly sworn, says that he is the county clerk of Beaver County, Oklahoma Territory and the defendant in the above entitled cause. That he knows the contents of the above and foregoing answer and the facts therein stated are true.

F. C. Tracy.

Subscribed and sworn to before me this 15th day of August, 1899.

(Seal)

Thomas A. Higgins, Notary Public.
My Commission expires April 23, 1902.

Beaver, Okla., July 21, 1899.

Exhibit "A"

The Board of County Commissioners of Beaver County Oklahoma Territory, met in session pursuant to law, at the office of the County Clerk of said county on Friday, July 21 A.D. 1899, at 8 o'clock A.M., for the purpose of making the levy of taxes for the year 1899.

Present; Dunlap, McCord and Steele. Chairman Dunlap presiding.

On motion, the Board adjourned until July 21, 1899, at 1 o'clock P. M.

Beaver, Okla., July 21, 1899, 1 o'clock P.M.

The Board of County Commissioners met pursuant to adjournment; Present, Dunlap, McCord and Steele. Chairman Dunlap presiding.

On motion McCord, the following tax levies for the purposes named, were made on the taxable property of Beaver County Oklahoma, according to the assessed valuation thereof for the year 1899. The same being for the fiscal year commencing July 1, 1899, and ending June 30, 1900, to-wit:

For County School,-----	1 mill on the dollar,-----	\$1262.50
For Sinking Fund,-----	2 mills on the dollar,-----	\$2525.00
For Judgment Fund,-----	6 mills on the dollar,-----	\$ 757.50
For Salary Fund,-----	44 mills on the dollar,-----	\$5555.00
Total levy for county purposes,-----	8 mills on the dollar,-----	\$10100.00

The County Superintendent having reported that school district officers for district No. 21 have failed to make a levy for the year 1899, and that an indebtedness of \$ 25.00 existed against said district, and recommending that a levy of 8 mills be levied on the taxable property of said district for the purpose of paying outstanding indebtedness. On motion McCord, a levy of 8 mills on the dollar was voted on the assessed valuation of said district No. 21 for the year 1899.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

The board having completed all the business before them and the county clerk having reported that no statement of the rate of the territorial tax levy, and equalization had been received by him, either from the territorial board of equalization or the territorial auditor, and there being no statement of the territorial tax levy before the board, on advice of the county attorney pro tem, the county attorney being absent, on motion McCord, it was voted that the tax for territorial purposes be levied at the rate of two mills on the dollar, of the assessed valuation of Beaver County Oklahoma, for the year 1899.

On motion McCord, the board adjourned, sine die.

Territory of Oklahoma,)
) SS.
County of Beaver.)

I, F.C.Tracy, County Clerk of said County, do hereby certify that the above and foregoing contains a full, true and correct transcript of the original records now on file in my office.

In testimony whereof, I have hereunto set my hand and affixed my official seal, this 12th day of Aug. A.D. 1899.

F. C. Tracy,
(Seal) County Clerk.

#901.

I N T H E S U P R E M E C O U R T O F T H E T E R R I T O R Y O F O K L A H O M A .

Territory of Oklahoma, ex rel,
Harper S. Cunningham as Attorney
General,

Relator,

vs.

Fred C. Tracy, as County Clerk
of Beaver County, O.T.
Respondent.

O R D E R .

Now on this the 15th day of August, A.D.1899, the above entitled cause comes on for hearing before me, Jno. H. Burford, as Chief Justice of the Territory of Oklahoma, and the above named plaintiff, the Territory of Oklahoma, appears by Harper S. Cunningham, as Attorney General, and the defendant, Fred C. Tracy, as County Clerk of Beaver County, appears in person and by his attorney, A.G.C.Bierer, and said cause is duly presented and argued by counsel, and thereupon same is taken under advisement by the court; and

Now on this the 16th day of August, A.D.1899, after consideration of the pleadings in said cause and the argument of counsel it is by me, Jno. H. Burford, as Chief Justice of the Territory, Considered, Ordered and Adjudged that a peremptory writ of mandamus forthwith issue in said cause as prayed in plaintiff's motion and affidavit, and the clerk of the Supreme Court of the Territory of Oklahoma is hereby directed and ordered to forthwith issue same under seal of the court; it is also ordered that the two mill Territorial Tax as levied by the Board of County Commissioners of said Beaver County be not extended upon the tax rolls of said county by said county clerk:

It is further Ordered that said plaintiff have and recover of said defendant the costs of this action in this cause made and accrued, taxed at _____ dollars; to all of which order counsel for defendant, Tracy, objects and excepts and asks for time in which to prepare and present motion for review of this order by full bench of this court.

Now therefore, it is Ordered that the execution of the foregoing order be stayed until the 21st day of August, 1899.

Done by me at Guthrie, Logan County, Oklahoma Territory, at Chambers this 16th day of August, 1899.

Jno. H. Burford,
Chief Justice.

SUPREME COURT PROCEEDINGS IN VACATION.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

#901.

Territory of Oklahoma, ex rel,
Harper S. Cunningham,
Attorney General,
Relator,

vs.

Fred C. Tracy, as County
Clerk of Beaver County, O.T.
Respondent.

Peremptory Writ of Mandamus.

Territory of Oklahoma to Fred C. Tracy as County Clerk of Beaver County: Greeting.

Whereas, upon motion and affidavit of the relator in the above entitled action it has been duly made to appear to me Jno. H. Burford, as Chief Justice of the Territory of Oklahoma, that Fred C. Tracy is the duly elected, qualified and acting county clerk of Beaver county, Oklahoma Territory; that heretofore, and on to-wit, the 17th day of July, A.D.1899, the Territorial Board of Equalization of said Territory duly met at the City of Guthrie in said Territory, pursuant to adjournment, and then and there proceeded to and did levy upon the taxable property within said Territory the following territorial taxes for the year 1899, to-wit,

For General Territorial Tax,	3 mills on the dollar.
For the Erection and Support of a Territorial Normal School at Edmond,	.5 mills on the dollar.
For the Support of a Territorial Normal School at Alva,	.5 mills on the dollar.
For the erection and support of the Oklahoma University at Norman,	.5 mills on the dollar.
For the Support of the Agricultural and Mechanical College at Stillwater,	.1 mill on the dollar.
For the support of the Colored Agricultural and Normal University at Langston,	.1 mill on the dollar.
For the support of the School for the Blind,	.1 mill on the dollar.
For the support of the School for the Deaf and Dumb,	.4 mills on the dollar.
Total	5.2 mills on the dollar.

That afterwards and on, to-wit: the 21st day of July, A.D.1899, S.N.Hopkins, the duly appointed, qualified and acting Auditor of said Territory, duly notified in writing the aforesaid levy of Territorial Taxes to the aforesaid clerk of Beaver County; that afterwards, to-wit: on the _____ day of July and within ten days from said 21st day of July, 1899, said notification was duly received by said county Clerk of Beaver County; that heretofore and on, to-wit: the 21st day of July, A.D.1899, the board of county commissioners of said Beaver County, without authority of law, did make an order levying a general territorial tax of two mills on the dollar valuation of taxable property in the said Beaver County; and

Whereas, it appears that the said Fred Tracy county clerk now fails and refuses to extend upon the tax rolls the aforesaid levy of taxes as made by said Territorial Board of Equalization and it is apparent that no valid excuse can be given for not so extending said taxes upon said tax rolls,

Now therefore, I being willing that justice be fully and speedily done in the premises, hereby order and direct that you the said Fred C. Tracy as county clerk of said Beaver County do, forthwith, extend upon the tax rolls of said Beaver county the several territorial taxes as levied by the Territorial board of Equalization of said territory and as above stated, and that you do not extend upon said tax rolls of said Beaver County the said general territorial tax of two mills as levied by said board of county commissioners.

Fail not hereof under pains and penalties of the law.

Witness my hand at Guthrie, O. T. this 23rd day of August, A.D.1899.

Jno. H. Burford,

Chief Justice Oklahoma.

And now on this 4th day of January, 1900, comes Harper S. Cunningham, Attorney General, and shows to the court that defendant in error has complied with the order herein, and asks judgment for costs.

It is therefore ordered by the Court: That the costs of this action, in the sum of \$_____, be adjudged against the said Fred C. Tracy, as County Clerk of Beaver County.

S U P R E M E C O U R T S P E C I A L S E S S I O N , A P R I L 26, 1900.

UNITED STATES OF AMERICA, Territory of Oklahoma. ss.

BE IT REMEMBERED, that on this the 26th day of April, 1900, the Supreme Court was convened in special session.

Present, the Honorable John H. Burford, Chief Justice, presiding; The Honorables John L. McAtee, Bayard T. Hainer and Benj. F. Burwell, associate justices; Benj. F. Hegler, Clerk; Horace Speed, U. S. Attorney, and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

ADMINISTRATION OF THE OATH OF OFFICE TO ASSOCIATE JUSTICE McATEE.

Comes now John L. McAtee, associate justice of the Supreme Court, and shows thereto, that he has recently been reappointed to the position of Associate Justice of the Supreme Court of the Territory of Oklahoma. And the oath of office is administered to him as such Associate Justice by the Chief Justice of said Court.

#866.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

W. J. Mendenhall,
Plaintiff in error,
vs.

Byron E. Cagle,
Defendant in error.

O R D E R.

And now upon this 26th day of April, A. D. 1900, this cause comes on for hearing in the above entitled Court, upon petition and application of the plaintiff in error for a modification of the rules, a rehearing, and a supersedeas of the judgment heretofore rendered in this case, and it appearing to the Court that the decision heretofore rendered in this cause is probably erroneous and reversible, and contrary to the decision and opinion of the United States, in the cause of Black vs. Jackson, appealed from this Court, in which the same questions are involved as in this case:

It is therefore ordered, that the mandate heretofore issued in this cause to the District Court of Noble County, Oklahoma Territory, is hereby recalled, and that the judgment of this Court, and of the District Court aforesaid, be superseded by the plaintiff in error giving a bond in the sum of Three Hundred Dollars, until this petition for rehearing is finally disposed of in this Court, and the mandate of this Court transmitted to the Clerk of said District Court.

Jno. H. Burford,
Chief Justice.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

#877.

John H. McDonald,
Plaintiff in error,
vs.

Michael Brady,
Defendant in error.

O R D E R.

And now upon this 26th day of April, A. D. 1900, this cause comes on for hearing in the above entitled Court, upon petition and application of the plaintiff in error for a modification of the rules, a rehearing, and a supersedeas of the judgment heretofore rendered in this case, and it appearing to the Court that the decision heretofore rendered in this cause is probably erroneous and reversible, and contrary to the decision and opinion of the United States, in the cause of Black vs. Jackson, appealed from this Court, in which the same questions are involved as in this case:

It is therefore ordered, that the mandate heretofore issued in this cause to the District Court of Kay County, Oklahoma Territory, is hereby recalled, and that the judgment of this Court, and of the District Court aforesaid, be superseded by the plaintiff in error giving a bond in the sum of Three Hundred Dollars, until this petition for rehearing is finally disposed of in this Court, and the mandate of this Court transmitted to the Clerk of said District Court.

Jno. H. Burford, Chief Justice.

S U P R E M E C O U R T S P E C I A L S E S S I O N , A P R I L 2 6 t h , 1 9 0 0 .

I N T H E S U P R E M E C O U R T O F T H E T E R R I T O R Y O F O K L A H O M A .

#917.

George P. Endicott,
Plaintiff in error,
vs.
Herbert R. Ellis, and Sam Lee,
Defendants in error.

O R D E R .

And now upon this 26th day of April, A.D.1900, this cause comes on for hearing in the above entitled Court, upon petition and application of the plaintiff in error for a modification of the rules, a rehearing, and a supersedeas of the judgment heretofore rendered in this case, and it appearing to the Court that the decision heretofore rendered in this cause is probably erroneous and reversible, and contrary to the decision and opinion of the United States, in the cause of Black vs. Jackson, appealed from this Court, in which the same questions are involved as in this case:

It is therefore ordered, that the mandate heretofore issued in this cause to the District Court of Kay County, Oklahoma Territory, is hereby recalled, and that the judgment of this Court, and of the District Court aforesaid, be superseded by the plaintiff in error giving a bond in the sum of Three Hundred Dollars, until this petition for rehearing is finally disposed of in this Court, and the mandate of this Court transmitted to the Clerk of said District Court.

Jno. H. Burford,
Chief Justice.

I N T H E S U P R E M E C O U R T O F T H E T E R R I T O R Y O F O K L A H O M A .

#918.

Sam Lee,
Plaintiff in error,
vs.
Herbert E. Ellis, and
George P. Endicott,
Defendants in error.

O R D E R .

And now upon this 26th day of April, A. D. 1900, this cause comes on for hearing in the above entitled Court, upon petition and application of the plaintiff in error for a modification of the rules, a rehearing, and a supersedeas of the judgment heretofore rendered in this case, and it appearing to the Court that the decision heretofore rendered in this cause is probably erroneous and reversible, and contrary to the decision and opinion of the United States, in the cause of Black vs. Jackson, appealed from this Court, in which the same questions are involved as in this case:

It is therefore ordered, that the mandate heretofore issued in this cause to the District Court of Kay County, Oklahoma Territory, is hereby recalled, and that the judgment of this Court, and of the District Court aforesaid, be superseded by the plaintiff in error giving a bond in the sum of Three Hundred Dollars, until this petition for rehearing is finally disposed of in this Court, and the mandate of this Court transmitted to the Clerk of said District Court.

Jno. H. Burford,
Chief Justice.

#741.

Jonas H. Cook et al,
Plaintiff in error,
vs.
Emma D. McCord et al,
Defendant in error.

Comes now John H. Cotteral of counsel for the plaintiff in error and asks an order of the Court for the return to the District Court of the original papers contained in the record herein, in the Supreme Court. And it is

Ordered by the Court: That the Clerk transmit the original papers of the record in the cause of Cook et al, vs. McCord et al, to the District Court whence said cause was appealed.

S U P R E M E C O U R T S P E C I A L S E S S I O N , A P R I L 26th, 1900.

ORDER FIXING AND CHANGING TERMS IN THE FIFTH JUDICIAL DISTRICT.

Ordered by the Court: That a term of Court be and is hereby fixed for the District Court of the County of Garfield, Fifth Judicial District, Territory of Oklahoma, at Enid, beginning April 27, 1900.

It is further ordered by the Court: That the term heretofore fixed for April 30, 1900, for Blaine County, in said Fifth District, be and is hereby changed and fixed for Monday, May 14, 1900, at Watonga.

It is further ordered by the Court: That the term heretofore fixed for May 10, 1900, for the County of Grant, in said Fifth District, be and the same is hereby changed and fixed for Monday, May 21, 1900, at Pond Creek.

It is further ordered by the Court: That all causes at issue and standing for trial in said courts of Blaine and Grant Counties at the dates heretofore fixed, shall stand for trial at the dates provided for in this order. And all orders, writs and summonses of every character, returnable to said terms as heretofore fixed, shall be returnable and stand for determination at the dates provided for in this order. And all persons under bond or recognizance to appear at any of the said terms as heretofore fixed shall be required to appear on the first day of the terms as fixed in this order.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, under the signature and seal of his office, to each of the District Courts of the Territory, and to the United States Attorney, and U. S. Marshal.

John. H. Burford,
Chief Justice.

ORDER ASSIGNING ASSOCIATE JUSTICE BURWELL TO PRESIDE

AT THE DISTRICT COURTS OF KAY AND NOBLE COUNTIES.

In the Supreme Court, Special Session, April 26, 1900.

Ordered by the Court: That Associate Justice Burwell, presiding Judge in the Third Judicial District, be and he is hereby assigned to preside at the District Courts of the Counties of Kay and Noble, in the Fourth Judicial District, during the absence of the Honorable Bayard T. Hainer, the regular presiding Judge of said Court, therefrom, beginning at the County of Kay, April 30, 1900; and to try, hear, and determine all matters that may come before said District Courts during the absence of said regular presiding Judge.

It is further ordered that the Clerk transmit a certified copy of this order to the said Justice Burwell, and to the District Courts of the Counties of Kay and Noble, under the signature and seal of his office.

Jno. H. Burford,
Chief Justice.

ORDER ASSIGNING ASSOCIATE JUSTICE HAINER TO PRESIDE

AT THE OKLAHOMA COUNTY DISTRICT COURT.

Ordered by the Court: That Associate Justice Bayard T. Hainer, presiding Judge of the Fourth Judicial District, be and he is hereby assigned to preside at the Oklahoma District Court, in the Third Judicial District, during the absence of the Honorable Benj. F. Burwell, the regular presiding Judge of said Court, therefrom, beginning April 30, 1900; and to try, hear and determine all matters that may come before said District Court during the absence of said regular presiding Judge.

It is further ordered, that the Clerk transmit a certified copy of this order, under the signature and seal of his office, to the said Justice Hainer, and to the Clerk of said Oklahoma County District Court.

Jno. H. Burford,
Chief Justice.

SUPREME COURT SPECIAL SESSION, APRIL 26th 1900.

ORDER TO PAY COURT CRIER.

Ordered by the Court: That U. S. Marshal be and is hereby directed to pay John C. Orner for one day's service as Court Crier, to-wit:

April 26, 1900.

Ordered that Court now adjourn to the next regular session, first Monday in June, 1900.

IN THE SUPREME COURT, TERRITORY OF OKLAHOMA.

UNITED STATES OF AMERICA)
: ss.
Territory of Oklahoma.)

I, John H. McAtee, of the Territory of Oklahoma, do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as Associate Justice of the Supreme Court of the Territory of Oklahoma, according to the best of my abilities and understanding; specially to the Constitution of the United States; and I do further solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office of Associate Justice of the Supreme Court of the Territory of Oklahoma on which I am about to enter; So Help Me God.

John H. McAtee.

Subscribed and sworn to before me this 27th day of April, A.D. 1900.

John H. Burford,

Chief Justice.

SUPREME COURT PROCEEDINGS IN SPECIAL SESSION.

APRIL 26TH 1900.

COMMISSION AND OATH OF OFFICE OF JOHN. L. McATEE, ASSOCIATE JUSTICE.

WILLIAM Mc KINLEY,

PRESIDENT OF THE UNITED STATES OF AMERICA.

To all who shall see these Presents Greeting:

Know Ye: That reposing special trust and confidence in the Wisdom, Uprightness and Learning of John L. McAtee of Oklahoma, I have nominated, and by and with the advice and consent of the Senate, do appoint him Associate Justice of the Supreme Court of the Territory of Oklahoma and do authorize and empower him to execute and fulfill the duties of that Office according to the Constitution and Laws of the said United States, and to Have and to Hold the said Office, with all the powers, privileges and emoluments to the same of right appertaining unto Him, the said John L. McAtee, for the term of four years from the date hereof, subject to the conditions and provisions prescribed by Law.

(Seal)

In testimony whereof, I have caused these Letters to be made patent and the seal of the Department of Justice to be hereunto affixed. Given under my hand at the City of Washington, the 12th day of April in the year of our Lord one thousand nine hundred and of the Independence of the United States of America the one hundred and twenty fourth.

By the President:

William McKinley.

John W. Griggs,

Attorney General.

DISTRICT OF COLUMBIA,)
County of Washington.) ss.

I, John L. McAtee, of the Territory of Oklahoma, do solemnly swear that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as Associate Justice of the Supreme Court of the Territory of Oklahoma, according to the best of my abilities and understanding; agreeably to the Constitution of the United States; and I do further solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office of Associate Justice of the Supreme Court of the Territory of Oklahoma on which I am about to enter: So help me God.

Jno. L. McAtee.

Subscribed and sworn to before me
this 15th day of April, A.D. 1900.

Jos. P. Rudy,

(Seal)

Notary Public, D.C.

SUPREME COURT, JUNE 1900, TERM. JUNE 4, 1st JUDICIAL DAY.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Fourth day of June, 1900, the Supreme Court of the Territory of Oklahoma convened in regular session for the June 1900 term pursuant to law, and to adjournment.

Present, the Honorable Jno. H. Burford, Chief Justice; the Honorables Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Horace Speed, United States Attorney; C. H. Thompson, United States Marshal, and John C. Orner, Court Crier.

Public proclamation having been duly made for the opening of the Court for the transaction of business, the following proceedings were had, to-wit:

978,

The So. Kan. Ry. Co. and the
A.T. & S.F. Ry. Co.
vs.
The City of Oklahoma City, O.T.
J.P. Allen, Mayor of said City et al.

Ordered by the Court: That this cause be reassigned for oral argument, June 8th.

960,

William Mulkins,
Plaintiff in error,
vs.
The United States,
Defendant in error.

Ordered by the Court: That this cause be now taken on the Motion to dismiss.

958,

Ed White,
Plaintiff in error,
vs.
The Territory,
Defendant in error.

Ordered by the Court: That this cause be passed.

968,

In Re,
Charles W. Bailey, and
Harry Plummer McCool,
(Habeas Corpus.)

Ordered by the Court: That this cause be passed.

544,

The Territory,
Plaintiff in error,
vs.
O. A. Mitscher, Andrew Cooper,
T. W. Williamson, John Cooper.
Defendants in error.

Ordered by the Court: That leave be given to defendant in error, to file briefs out of time.

899,

The Perry Water, Light
and Ice Company,
Plaintiff in error,
vs.
The City of Perry, J.L. Pancoast,
Mayor City of Perry, et al,
Defendant in error.

Ordered by the Court: That the appeal herein be dismissed on account of motion for jury trial.

SUPREME COURT, JUNE 1900, TERM. JUNE 4, 1st JUDICIAL DAY.

948,
S. A. Akins,
Plaintiff in error,
vs.
S. A. Moore,
Defendant in error.

Ordered by the Court: That this cause be now taken on the motion to dismiss.

954,
S. J. Jordan,
Plaintiff in error,
vs.
Lelah Davis,
Defendant in error.

Ordered by the Court: That this cause be now taken on briefs.

957,
William C. Browning, et al.,
Plaintiff in error,
vs.
S.A.Akins, Defendant, and
Burnham, Hanna, Munger & Co.
Interpleaders.

Ordered by the Court: That this cause be now taken on briefs.

966,
The City of Kingfisher,
Plaintiff in error,
vs.
The Guthrie National Bank,
Defendant in error.

Ordered by the Court: That this cause be now taken on motion to dismiss.

#967,
The Long-Bell Lumber Company,
Plaintiff in error,
vs.
H. B. Martin,
Defendant in error.

Ordered by the Court: That this cause be now taken on motions to dismiss and strike,
and on briefs.

969,
The Board of County Commissioners
of Garfield County, O. T.
Plaintiff in error,
vs.
J.T.Isenberg, Successor to The
Wave Printing Co.
Defendant in error.

Ordered by the Court: That this cause be now taken on briefs.

#971,
Florence Bayless,
Plaintiff in error,
vs.
Robert McFarland,
Defendant in error.

Ordered by the Court: That this cause be now taken on briefs of Plaintiff in error.

#973,
Rosetta Ward, et al.,
Plaintiffs in error,
vs.
The Board of Co. Comr's of
Logan Co.O.T.and Albert Ploeger,
Defendants in error.

Ordered by the Court; That defendant be allowed 3 days to file briefs, and cause taken on
briefs/.

S U P R E M E C O U R T, J U N E 1 9 0 0, T E R M. J U N E 4, 1 s t J U D I C I A L D A Y.

#976,

A. F. Streight and
G. N. Werthen,
Plaintiffs in error,
vs.
William M. Durham,
Treasurer of Pottawatomie Co.O.T.
Defendant in error.

Ordered by the Court: That this cause be now taken on briefs.

#977,

Sam Rose,
Plaintiff in error,
vs.
William M. Durham, Treas.
of Pottawatomie Co.O.T.
Defendant in error.

Ordered by the Court: That this cause be now taken on briefs.

#979,

M. B. Keagy,
Plaintiff in error,
vs.
The Wellington National Bank,
Defendant in error.

Ordered by the Court: That this cause be now continued as per stipulation filed.

#980,

Mansur & Tabbetts,
Implement Co.
Plaintiff in error,
vs.
George R. Willet,
Defendant in error.

Ordered by the Court: That this cause be now taken on briefs of both parties.

#983,

D. V. Hanenkratt,
Plaintiff in error,
vs.
Nellie M. Hamil,
Defendant in error.

Ordered by the Court: That this cause be now taken on briefs of both parties.

#984,

Lily A. Hunt, Guardian
of Charles B. Hunt, (Insane)
Plaintiff in error,
vs.
Charles W. Garland and
George Chandler,
Defendants in error.

Ordered by the Court: That this cause now be continued for service.

#985,

George W. Best,
Plaintiff in error,
vs.
William L. Frazier,
Defendant in error.

Ordered by the Court: That this cause be continued.

#987,

Lewis Rockwood, et al,
Plaintiff in error,
vs.
The Estate of St John,
Defendant in error.

Ordered by the Court: That this cause be taken on briefs of both parties.

SUPREME COURT, JUNE 1900, TERM. JUNE 4, 1st JUDICIAL DAY.

#990,
George S. Parker, et al.,
Plaintiffs in error,
vs.
Liston Robertson, et al.,
Defendants in error.

Ordered by the Court: That this cause be passed.

#992,
O. W. Annis,
Plaintiff in error,
vs.
Maggie Bell,
Defendant in error.

Ordered by the Court: That this cause be passed.

#916,
T. F. McKennon,
Plaintiff in error,
Annie McKennon,
Defendant in error,

Ordered by the Court: That leave be granted Defendant in error, to file briefs out of time.

#972,
In Re,
J. O. Comstock,
(Habeas Corpus)

Comes now G. N. Bailey, Clerk of the Probate Court of Pawnee Co., and is sworn as a witness and testifies, and further hearing of this cause is for the time continued.

NATURALIZATION OF JOHN SALISBURY.

Comes now into open Court, John Salisbury, a native of Great Britan, and makes his application to be admitted to become a citizen of the United States.

And it appearing to the Court, that the said John Salisbury is over the age of 21 years, and that he has enlisted in the regular army of the United States, and been regularly discharged therefrom; and it further appearing to the Court, by proof other than that of applicant, that the said John Salisbury is a person of good moral character attached to the principle of the constitution of the United States, and well disposed to the good order and hapiness of the same, and it further appearing, that said applicant has resided within the United States for more than 5 years, and within the Territory of Oklahoma, for more than one year next previous to this application; and that he now declares on oath in open Court his intention to renounce and abjure all allegiance and fidelity to every foreign prince, potentate, state, or sovereignty whatsoever, and particularly to Victoria, Queen of Great Britan and Irland, and Empress of India, of whom he was heretofore a subject, it is hereby

Ordered by the Court: That the said John Salisbury be, and he is hereby admitted to become a citizen of the United States.

ADMISSION OF FRANK. B. BURFORD TO PRACTICE.

Comes now Horace Speed, United States Attorney, a member of the bar of the Supreme Court, and moves the admission thereto of Frank B. Burford, a member of the bar of the District Court of Logan County, Territory of Oklahoma, and the attorney's oath is administered to the said Frank B. Burford, and it is

Ordered by the Court: That Frank B. Burford be and he is hereby admitted to practice in the Supreme Court of the Territory, and all the inferior courts thereof.

S U P R E M E C O U R T , J U N E 1900, T E R M J U N E 4, 1st J U D I C I A L D A Y.

ADMISSION OF GUY GRAHAM TO PRACTICE.

Comes now T. G. Chambers, a member of the bar of the Supreme Court, and moves the admission of Guy Graham, a member of the Oklahoma County District Court, to practice at the bar of said Supreme Court. And the Attorney's oath is administered to him, and it is

Ordered by the Court: That Guy Graham be and he is hereby admitted to practice at the bar of the Supreme Court of the Territory, and in all the inferior Courts thereof .

Ordered that Court now adjourn until 10 o'clock to-morrow morning.

S U P R E M E C O U R T, J U N E 1 9 0 0, T E R M, J U N E 5, 2 n d, J U D I C I A L D A Y.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on the Fifth day of June, in the year of our Lord one thousand nine hundred, the Supreme Court convened in regular session for the June 1900 term, pursuant to yesterday's adjournment:

Present, The Honorable Jno. H. Burford, Chief Justice; the Honorables Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, associate justices; Benj. F. Hegler, Clerk; Horace Speed, United States Attorney; C. H. Thompson, United States Marshal, and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the Court for the transaction of business the following proceedings were had, to-wit:

915,
George Grothe,
Plaintiff in error,
vs.
The Territory,
Defendant in error.

Ordered by the Court: That this cause be now taken on the motion to dismiss and record.

#929,
W. P. Perkins,
Plaintiff in error,
vs.
The Territory,
Defendant in error.

Ordered by the Court: That this cause be assigned for oral argument, June 8th.

#961,
S. G. B. Harvey,
Plaintiff in error,
vs.
The Territory,
Defendant in error.

Ordered by the Court: That this cause be now taken on record.

#963,
Robert Morford,
Plaintiff in error,
vs.
The Territory,
Defendant in error.

Comes now F. J. Kearful, of counsel for plaintiff in error and make oral argument of this cause, and oral argument is waived by Frank Dale of counsel for defendant in error, and cause is submitted on briefs and argument.

#974,
J. W. Fox, et al.,
Plaintiffs in error,
vs.
The Territory of Oklahoma,
Defendant in error.

Ordered by the Court: That the appeal herein be and the same is hereby dismissed for want of case-made or transcript.

#986,
C. B. Utsler,
Plaintiff in error,
vs.
The Territory,
Defendant in error.

Ordered by the Court: That this cause be now taken on briefs.

SUPREME COURT. JUNE 1900. TERM. JUNE 5. 2nd JUDICIAL DAY.

#966,
The City of Kingfisher,
Plaintiff in error,
vs.
The Guthrie National Bank,
Defendant in error.

Ordered by the Court: That the motion to dismiss this cause be and the same is hereby sustained.

#544,
The Territory of Oklahoma,
Plaintiff in error,
vs.
O. A. Mitscher, Andrew Cooper,
T.W. Williamson, John Cooper,
Defendants in error.

Ordered by the Court: That this cause be assigned for oral argument, June 8th.

#450,
George Gray, et al.,
Plaintiffs in error,
vs.
Joseph Stiles, Treas. et al.,
Defendants in error.

Comes now Horace Speed, counsel for plaintiff in error, and shows to the Court, that no mandate has been issued in this cause, and asks the issuance of the same, and it is

Ordered by the Court: That the Clerk issue a mandate in said cause.

Ordered that Court now adjourn until 10 o'clock to-morrow morning.

S U P R E M E C O U R T, J U N E 1 9 0 0, T E R M. J U N E 6, 3 r d J U D I C I A L D A Y.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on the Sixth day of June, in the year of our Lord one thousand nine hundred, the Supreme Court convened in regular session for the June 1900 term, pursuant to yesterday's adjournment:

Present, The Honorable Jno. H. Burford, Chief Justice; The Honorables Jno. L. McAtee, Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Horace Speed, United States Attorney; C.H. Thompson, United States Marshal, and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the Court for the transaction of business the following proceedings were had, to-wit:

#123,
Guthrie National Bank,
Plaintiff in error,
vs.
McElhinney,
Defendant in error.

And now this cause comes on for consideration by the Court, upon the motion for leave to file a petition for rehearing, out of time.

And the Court having considered said motion and being fully advised in the premises, finds that the same should be denied.

It is therefore ordered by the Court: That the motion for leave to file a petition out of time for a rehearing of this cause, be and the same is hereby denied.

#667,
Malone,
Plaintiff in error,
vs.
Roberts,
Defendant in error.

Ordered by the Court: That the motion to re-instate this cause be overruled.

#916,
T.F. McKennon,
Plaintiff in error,
vs.
Annie McKennon,
Defendant in error.

Ordered by the Court: That this cause be now taken on motion to dismiss and briefs.

#944,
F. A. Richardson, et al.,
Plaintiff in error,
vs.

Elisha Penny,
Defendant in error.

And now this cause comes on for determination by the Court, upon the petition for rehearing of the same.

And the Court having duly considered said petition and being fully advised in the premises, finds that the same should be denied.

It is therefore ordered by the Court: That the petition for a rehearing of this cause be and the same is hereby denied.

S U P R E M E C O U R T, J U N E 1900, T E R M. J U N E 6, 3r d J U D I C I A L D A Y.

#948,
S. A. Akins,
Plaintiff in error,
vs.
S. A. Moore,
Defendant in error.

Ordered by the Court: That the motion to strike plaintiffs briefs from the files and dismiss this cause be, and the same is hereby sustained, and said cause dismissed.

#965,
Territory ex rel W.R. Taylor,
Co. Att'y Oklahoma County,
Plaintiff in error,
vs.
School District 83 of
Oklahoma Co., et al.,
Defendant in error.

Ordered by the Court: That motion to dismiss the appeal herein be, and the same is hereby overruled.

#975,
J. H. Koller,
Plaintiff in error,
vs.
E. J. Richards,
Defendant in error.

Ordered by the Court: That this cause be now dismissed on plaintiffs motion therefor, at cost of plaintiff.

979,
M. B. Keagy,
Plaintiff in error,
vs.
The Wellington National Bank,
Defendant in error.

Ordered by the Court: That this cause be continued for the term, as per stipulation of parties.

#991,
Martin L. Cecil,
Plaintiff in error,
vs.
Board of County Commissioners
of Washita County,
Defendants in error.

Ordered by the Court: That the motions to strike and dismiss herein, be overruled.

#854,
Elmer E. Carmichael,
Plaintiff in error,
vs.
W. F. Pierce, and
O. A. Lund,
Defendants in error.

And now this cause comes on for final decision by the Court, upon the record and briefs of parties submitted therein.

And the Court having duly considered the same, and being fully advised in the premises, finds that the judgment of the Lower Court in this cause should be affirmed at appellants cost. It is therefore ordered and adjudged by the Court: That the judgment of the Lower Court be, and the same is hereby affirmed.

Opinion by Irwin, J. All the Justices concurring, except Hainer, J, who presided below.

S U P R E M E C O U R T , J U N E 1 9 0 0 . T E R M . J U N E 6 . 3 r d J U D I C I A L D A Y .

#965,
Territory of Oklahoma, ex rel,
Taylor, Co. Att'y of Oklahoma
County, Plaintiff in error,
vs.
School District 83 of Oklahoma
County, O.T. et al.
Defendants in error.

Comes now J. L. Brown of counsel for plaintiff in error, and S. S. Lawrence of counsel for defendant in error, and oral argument is made in this cause, and the same is submitted on the record, briefs and argument.

#982,
John Y. Foust,
Plaintiff in error,
vs.
The Territory,
Defendant in error.

Comes now J. C. Strang, Attorney General, and waives his oral argument heretofore asked in this cause, and the same is submitted.

#989,
Frank M. Thompson, Treas.
of Oklahoma Territory,
Plaintiff in error,
vs.
The Territory of Oklahoma ex rel,
J. C. Strang, Att'y Gen'l.
Defendant in error.

Comes now Frank Dale of counsel for plaintiff in error and J. C. Strang, Attorney General, for the Territory, and make oral argument in this cause, and the same is submitted on the record, briefs of parties and Argument.

#966,
The City of Kingfisher,
Plaintiff in error,
vs.
The Guthrie National Bank,
Defendant in error.

Ordered by the Court: That this cause be now dismissed for failure to file briefs and because summons not issued within the year.

#949,
Harry R. Decker,
Plaintiff in error,
vs.
S. D. Cahill,
Defendant in error.

Ordered by the Court: That this cause be continued until to-morrow for oral argument.

#950,
John Vesely, et al.,
Plaintiff in error,
vs.
Elizabeth Engelkemier,
Defendant in error.

Comes now Frank Dale, of counsel for defendant in error, and waives his oral argument herein and cause is submitted on record and briefs.

SUPREME COURT, JUNE 1900, TERM JUNE 6, 3rd JUDICIAL DAY.

#953,
John Romig, et al.,
Plaintiff in error,
vs.
Myrtle Gillett,
Defendant in error.

And now oral argument is waived in this cause and the same is taken on record and briefs.

Ordered that Court now adjourn until 10 o'clock to-morrow morning.

S U P R E M E C O U R T , J U N E 1 9 0 0 , T E R M J U N E 7 , 4 t h J U D I C I A L D A Y .

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Seventh day of June, 1900, the Supreme Court of the Territory of Oklahoma convened in regular session for the June 1900 term pursuant to yesterday's adjournment:

Present, The Honorable Jno. H. Burford, Chief Justice; the Honorables Jno. L. McAtee, Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Horace Speed, United States Attorney; C. H. Thompson, United States Marshal, and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the Court for the transaction of business the following proceedings were had, to-wit:

#915,
George Grothe,
Plaintiff in error,
vs.
The Territory,
Defendant in error.

Ordered by the Court: That the appeal herein be dismissed, for failure to prosecute the same.

#1003,
Conrad Maas,
Plaintiff in error,
vs.
The Territory,
Defendant in error.

Ordered by the Court: That 90 days be allowed the Attorney General, to file briefs herein, and that cause be continued until next term.

#961,
S. G. B. Harvey,
Plaintiff in error,
vs.
The Territory,
Defendant in error.

Ordered by the Court: That the plaintiff in error be given 90 days to file his brief herein and the Attorney General, 30 days after service thereof, to file his briefs, and cause continued to next term.

#955,
R. R. Russell,
Plaintiff in error,
vs.
N. J. Green, as Treas,
et al. Defendants in error.

Comes now Marshal Fulton, of counsel for plaintiff in error and make oral argument herein, and cause is submitted on record, argument and briefs.

#964,
Jane Wilson,
Plaintiff in error,
vs.
Wallace Wood, Jr., et al.,
Defendants in error.

Comes now J. L. Brown of counsel for plaintiff in error and make oral argument in this cause, and the same is submitted on argument and briefs.

SUPREME COURT, JUNE 1900, TERM. JUNE 7, 4th JUDICIAL DAY.

ADMISSION OF C. F. SMITH TO PRACTICE.

Comes now T. G. Chambers, and moves the admission of C. F. Smith a member of the bar of the Oklahoma County District Court to practice in the Supreme Court, and the attorneys oath is administered to him, and it is.

Ordered by the Court: That C. F. Smith be, and he is hereby admitted to practice at the bar of the Supreme Court of the Territory, and in all inferior Courts thereof.

#970,
P. C. Kramer,
Plaintiff in error,
vs.
John Ewing,
Defendant in error.

Comes now C. F. Smith and T. G. Chambers, counsel for plaintiff in error, and J. L. Brown of counsel for defendant in error and make oral argument in this cause and the same is submitted on argument and briefs.

#981,
The George R. Barse Live
Stock Commission Co.
Plaintiffs in error,
vs.
A. J. McKinster, et al.,
Defendants in error.

Comes now Robert J. Ray, counsel for plaintiff in error and A.C. Towne of counsel for defendant in error and make oral argument in this cause, which is submitted on the oral argument and briefs, with leave to add the briefs additional authorities.

#991,
Martin L. Cecil,
Plaintiff in error,
vs.
Board of County Commissioners
of Washita Co.
Defendants in error.

Comes now R.B. Forrest of counsel for plaintiff in error, and make oral argument herein, and cause is submitted on oral argument and briefs of parties.

#993,
C. F. Colcord,
Plaintiff in error,
vs.
William P. Comger,
Defendant in error.

Comes now Jas. R. Keaton of counsel for plaintiff in error and make oral argument herein, and cause is taken on oral argument and briefs.

#949,
Harry R. Decker,
Plaintiff in error,
vs.
S. D. Cahill,
Defendant in error.

Comes now S. S. Lawrence of counsel for plaintiff in error, and A.G.C. Bierer of counsel for defendant in error and make oral argument herein and cause is submitted on argument and briefs.

Ordered that Court now adjourn until 10 o'clock to-morrow morning.

S U P R E M E C O U R T. J U N E 1 9 0 0. T E R M. J U N E 8. 5 t h J U D I C I A L D A Y.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on the Eighth day of June, in the year of our Lord one thousand nine hundred the Supreme Court convened in regular session for the June 1900 term, pursuant to yesterday's adjournment:

Present, The Honorable Jno. H. Burford, Chief Justice; The Honorables Jno. L. McAtee, Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Horace Speed, United States Attorney, C. H. Thompson, United States Marshal, and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the Court for the transaction of business, the following proceedings were had, to-wit:

#933,
W. S. Pratt,
 plaintiff in error,
 vs.
John A. Ratliff, Sheriff,
 Defendant in error.

And now this cause comes on for final decision by the Court, upon the record and briefs submitted therein, and the Court having duly considered the same, and being fully advised in the premises, finds that the judgment of the lower Court in said cause should be affirmed at cost of appellant. It is therefore

Ordered and adjudged by the Court: That the decision of the lower court in this cause, be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Irwin, J. All the justices concurring.

ADMISSION OF GEORGE M. GREEN TO PRACTICE.

Comes now Horace Speed, United States Attorney, a member of the bar of the Supreme Court, and moves the admission of Geo. M. Green, a member of the bar of Logan County District Court, to practice at the bar of said Supreme Court, and the Attorney's oath is administered to him, and it is

Ordered by the Court: That Geo. M. Green be and he is hereby admitted to practice at the bar of the Supreme Court of the Territory and in all the inferior courts thereof.

#544,
The Territory,
 Plaintiff in error,
 vs.
O. A. Mitscher, et al.,
 Defendants in error.

Now oral argument is waived in this cause and the same is submitted on briefs by agreement.

#978,
The Southern Kans. Ry. Co. & The
A.T. & S.F. Ry. Co.
 Plaintiffs in error,
 vs.
The City of Oklahoma City, O.T.
J. P. Allen, Mayor of said City, et al.,
 Defendants in error.

Comes now Henry E. Asp of counsel for plaintiff in error and C. B. Stuart of counsel for defendant in error and make oral argument in this cause, and the same is submitted on the record, argument and briefs.

SUPREME COURT, JUNE 1900, TERM. JUNE 8, 5th JUDICIAL DAY.

#850, Benj. L. Kirtley,
Plaintiff in error,
vs.
May Dykes,
Defendant in error.

Ordered by the Court: That the motion for leave to file motion for review in this cause, be and the same is hereby denied.

#866, W. J. Mendenhall,
Plaintiff in error,
vs.
Byron E. Cagle,
Defendant in error.

And now this cause comes on for determination by the court, upon the motion for leave to file a petition for rehearing and review of this cause.

And the Court having duly considered said motion, and being fully advised in the premises, finds that the same should be allowed.

It is therefore ordered by the Court: That leave be given to file a petition for rehearing and review of this cause.

ORDER FIXING FALL TERMS FOR THE FIRST JUDICIAL DISTRICT.

Ordered by the Court: That Fall terms of the District Courts for the various counties of the First Judicial District be and are hereby fixed as follows, to-wit:

For Payne County, at Stillwater, the Second Monday in September.

For Lincoln County, at Chandler, the First Monday in October.

For Woodward County, at Woodward, the Fourth Tuesday in October.

For Logan County, at Guthrie, the Second Thursday in November.

It is further ordered by the Court: That all causes at issue and standing for trial in said courts of Payne, Lincoln and Logan Counties at the dates heretofore fixed, shall stand for trial at the dates provided for in this order. And all orders, writs and summonses of every character, returnable to said terms as heretofore fixed, shall be returnable and stand for determination at the dates provided for in this order. And all persons under bond or recognizance to appear at any of the said terms as heretofore fixed shall be required to appear on the first day of the terms as fixed in this order.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, under the signature and seal of his office to each of the District Courts of the Territory, and to the U. S. Attorney and the U. S. Marshal.

Jno. H. Burford,

Chief Justice.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

ORDER FIXING FALL TERMS OF COURT IN THE SECOND JUDICIAL DISTRICT.

Ordered by the Court: That Fall terms be fixed for the various counties of the Second Judicial District, Territory of Oklahoma, as follows, to-wit:

For Washita County, at Cloud Chief, Wednesday, September 19, 1900.

For Custer County, at Arapahoe, Wednesday, October 3, 1900.

For Cleveland County, at Norman, Monday, October 15, 1900.

S U P R E M E C O U R T , J U N E 1 9 0 0 , T E R M J U N E 8 , 5 t h J U D I C I A L D A Y .

For Kingfisher County, at Kingfisher, Monday, November 5, 1900.

For Canadian County, at El Reno, Monday, November 26, 1900.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, under the signature and seal of his office, to each of the District Courts of the Territory, and to the United States Attorney and United States Marshal.

Jno. H. Burford,

Chief Justice.

Attest:

Benj. F. Hegler,

Clerk Supreme Court.

ORDER FIXING FALL TERMS OF COURT IN THE FOURTH DISTRICT.

Ordered by the Court: That Fall terms of Court be and are hereby fixed for the Fourth Judicial District of the Territory of Oklahoma as follows, to-wit:

For Beaver County, at Beaver, Tuesday, September 11, 1900.

For Kay County, at Newkirk, Monday, September 24, 1900.

For the Osage Nation, at Pawhuska, Monday, October 29, 1900.

For Pawnee County, at Pawnee, Wednesday, November 7, 1900.

For Noble County, at Perry, Monday, December 3, 1900.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, under the signature and seal of his office, to each of the District Courts of the Territory, and to the United States Attorney and United States Marshal.

Jno. H. Burford,

Chief Justice.

Attest:

Benj. F. Hegler,

Clerk Supreme Court.

ORDER FIXING TERMS FOR COUNTIES OF THE FIFTH JUDICIAL DISTRICT.

Ordered by the Court: That terms be fixed for the various counties of the Fifth Judicial District, Territory of Oklahoma, as follows, to-wit:

For Garfield County, at Enid, June 11, and November 19, 1900.

For Grant County, at Pond Creek, June 25, and September 10, 1900.

For Dewey County, at Taloga, July 5, 1900, for issue of County Bonds.

For Dewey County, at Taloga, Fall term, September 19, 1900.

For Day County, at Grand, for issue of County Bonds, July 10, 1900.

For Day County, at Grand, Fall term, October 22, 1900.

For Blaine County, at Watonga, October 4, 1900.

For Woods County, at Alva, November 1, 1900.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, under the signature and seal of his office, to each of the District Courts of the Territory, and to the U.S. Attorney and U. S. Marshal.

Jno. H. Burford,

Chief Justice.

Attest:

Benj. F. Hegler,

Clerk Supreme Court.

S U P R E M E C O U R T, J U N E 1 9 0 0, T E R M. J U N E 8, 5 t h J U D I C I A L D A Y.

ORDER TRANSFERRING ROGER MILLS COUNTY FROM SECOND TO FIFTH DISTRICT.

Ordered by the Court: That the County of Roger Mills, Territory of Oklahoma, now of the Second Judicial District in said Territory, be and is hereby transferred to the Fifth Judicial District, to take effect July 1, 1900.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, under the signature and seal of his office, to each of the District Courts of the Territory, and to the United States Attorney and United States Marshal.

Jno. H. Burford,

Chief Justice.

Attest:

Benj. F. Hegler,

Clerk Supreme Court.

ORDER TRANSFERRING CLEVELAND COUNTY TO THE SECOND JUDICIAL DISTRICT.

Ordered by the Court: That the County of Cleveland, now of the Third Judicial District, Territory of Oklahoma, be and the same is hereby transferred to the Second Judicial District of said Territory, to take effect July 1, 1900.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, under the signature and seal of his office, to each of the District Courts of the Territory, and to the United States Attorney and United States Marshal.

Jno. H. Burford,

Chief Justice.

Attest:

Benj. F. Hegler,

Clerk Supreme Court.

ORDER ASSIGNING CHIEF JUSTICE BURFORD TO PRESIDE AT THE NOBLE COUNTY DISTRICT COURT.

Whereas, a change of Judge has been asked and granted in the cause of The Territory of Oklahoma vs. G. T. Godsey, pending in the District Court of the County of Noble, in said Territory, it is hereby

Ordered by the Court: That the Hon. Jno. H. Burford, Chief Justice of the Supreme Court of said Territory, and presiding Judge of the First Judicial District thereof, be and he is hereby assigned to preside at the December, 1900, term of said Noble County District Court, to try said cause of The Territory vs. Godsey; and to try, hear and determine all causes and matters pending in said Court, or that may come before it during the absence of the Hon. Bayard T. Hainer, the regular presiding Judge of said Noble County District Court, therefrom.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, under the signature and seal of his office, to the Chief Justice Burford, and to the Clerk of said Noble County District Court.

Jno. H. Burford,

Chief Justice.

Attest:

Benj. F. Hegler,

Clerk Supreme Court.

ORDER ASSIGNING JUSTICE McATEE TO PRESIDE AT THE WASHITA COUNTY DISTRICT COURT.

Ordered by the Court: That the Hon. Jno. L. McAtee, Associate Justice of the Supreme Court of the Territory of Oklahoma, and presiding Judge of the Fifth Judicial District, be and he is hereby assigned to preside at the District Court of the County of Washita, at the term beginning September 19, 1900; and to try, hear and determine all matters and causes pending or arising therein, during the absence of the Hon. Clinton F. Irwin, the regular presiding Judge of said District Court, therefrom.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order to the said Justice McAtee, and to the Clerk of the District Court of said Washita County.

Jno. H. Burford,

Chief Justice.

Attest:

Benj. F. Hegler, Clerk Supreme Court.

S U P R E M E C O U R T , J U N E 1 9 0 0 , T E R M , J U N E 8 , 5 t h J U D I C I A L D A Y .

ORDER ASSIGNING JUSTICE HAINER TO PRESIDE AT THE LOGAN COUNTY DISTRICT COURT.

Whereas, a change of Judge has been asked and granted in the causes of The Territory of Oklahoma vs. H. H. Reeves and R. S. Reeves, and Hila W. Smith vs. Ike B. Levy, pending in the District Court of Logan County, in said Territory, it is hereby

Ordered by the Court: That the Hon. Bayard T. Hainer, Associate Justice of the Supreme Court of said Territory, and presiding Judge of the Fourth Judicial District thereof, be and he is hereby assigned to preside at the November, 1900, term of said Logan County District Court, to try said causes of The Territory vs. Reeves and Reeves; and Hila W. Smith vs. Ike B. Levy; and to try, hear and determine all causes and matters pending in said Court or that may come before it during the absence of the Hon. Jno. H. Burford, Chief Justice of said Supreme Court and regular presiding Judge of said Logan County District Court, therefrom.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, under the signature and seal of his office to the said Justice Hainer, and to the Clerk of said Logan County District Court.

Jno. H. Burford,

Chief Justice.

Attest: Benj. F. Hegler,

Clerk Supreme Court.

ASSIGNMENT OF JUSTICE BURWELL TO LINCOLN COUNTY DISTRICT COURT.

Whereas, a change of Judge has been asked and granted in the cause of The Territory vs. Florence, pending in the District Court of Lincoln County, it is hereby

Ordered by the Court: That the Hon. Benj. F. Burwell, Associate Justice of the Supreme Court, of the Territory of Oklahoma, and presiding Judge of the Third Judicial District thereof, be and he is hereby assigned to preside at the October Term, 1900, of said Lincoln County District Court, to try the cause of the Territory vs. Lon Florence; and to try, hear and determine all causes and matters pending in said Court or that may come before it during the absence of the Hon. Jno. H. Burford, Chief Justice of said Supreme Court, and regular presiding Judge of said Lincoln County District Court, therefrom.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, under the signature and seal of his office, to the said Justice Burwell, and to the Clerk of said Lincoln County District Court.

Jno. H. Burford,

Chief Justice.

Attest: Benj. F. Hegler,

Clerk Supreme Court.

ORDER ASSIGNING JUSTICE BURWELL TO PRESIDE AT THE CLEVELAND COUNTY DISTRICT COURT.

Ordered by the Court: That the Hon. B. F. Burwell, Associate Justice of the Supreme Court of the Territory of Oklahoma, and presiding Judge of the Third Judicial District, be and he is hereby assigned to preside at the District Court of the County of Cleveland, in the Second District, beginning August 20, 1900, to close up and complete certain unfinished business pending therein at the time of the transfer of said county from the Third to the Second Judicial District.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, under the signature and seal of his office, to the said Justice Burwell, and to the District Clerk of said Cleveland County.

Jno. H. Burford,

Chief Justice.

Attest: Benj. F. Hegler,

Clerk Supreme Court.

SUPREME COURT, JUNE 1900, TERM. JUNE 8, 5th JUDICIAL DAY.

ORDER ASSIGNING JUSTICE IRWIN TO PRESIDE AT DEWEY COUNTY DISTRICT COURT/.

Ordered by the Court: That the Hon. Clinton F. Irwin, Associate Justice of the Supreme Court of the Territory of Oklahoma, and presiding Judge of the Second Judicial District thereof, be and he is hereby assigned to preside at the District Court of the County of Dewey, at the term beginning September 19, 1900; and to try, hear and determine all matters and causes pending or arising therein, during the absence of the Hon. Jno. L. McAtee, the regular presiding Judge of said District Court, therefrom.

It is further ordered: That the Clerk transmit a certified copy of this order to the said Justice Irwin, and to the Clerk of the District Court of said Dewey County.

Jno. H. Burford,

Chief Justice.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

ORDER ASSIGNING ASSOCIATE JUSTICE IRWIN TO PRESIDE AT THE GRANT COUNTY DISTRICT COURT.

Whereas, a change of Judge has been asked and granted in the cause of the Territory of Oklahoma vs. Erastus V. Robins, pending in the District Court of the County of Grant, in said Territory, it is hereby

Ordered by the Court: That the Hon. Clinton F. Irwin, Associate Justice of the Supreme Court of said Territory, and presiding Judge of the Second Judicial District, be and he is hereby assigned to preside at said Grant County District Court, to try said cause of The Territory vs. Robins; and to try, hear and determine all causes and matters pending in said Court, or that may come before it during the absence of the Hon. Jno. L. McAtee, the regular presiding Judge of said Grant County District Court, therefrom.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, under the signature and seal of his office, to the said Justice Irwin, and to the Clerk of said Grant County District Court.

Jno. H. Burford,

Chief Justice.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

ASSIGNMENT OF JUSTICE IRWIN TO GARFIELD COUNTY DISTRICT COURT.

Whereas, a change of Judge has been asked and granted in the causes of The Territory vs. Joseph Drury, Webb Neal, William Neal, Charley Tipler, and R. E. Bray vs. The Wave Printing Company, pending in the District Court of Garfield County, it is hereby

Ordered by the Court: That the Hon. Clinton F. Irwin, Associate Justice of the Supreme Court, of the Territory of Oklahoma, and presiding Judge of the Second Judicial District thereof, be and he is hereby assigned to preside at the said Garfield County District Court, to try the causes of The Territory vs. Joseph Drury, Webb Neal, William Neal, Charley Tipler, and R. E. Bray vs. The Wave Printing Company, and to try, hear and determine all causes and matters pending in said Court or that may come before it during the absence of the Hon. Jno. L. McAtee, Associate Justice of said Supreme Court, and regular presiding Judge of said Garfield County District Court, therefrom.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, under the signature and seal of his office, to the said Justice Irwin, and to the Clerk of said Garfield County District Court.

Jno. H. Burford,

Chief Justice.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

Ordered that Court now adjourn until June 30th 1900.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N

IN THE SUPREME COURT, TERRITORY OF OKLAHOMA.

ORDER ASSIGNING JUSTICE HAINER TO SECOND JUDICIAL DISTRICT.

It having been made to appear to my satisfaction that Associate Justice Irwin, presiding Judge of the Second Judicial District is absent from his District and for that reason, unable to discharge the duties of Judge in said District.

It is now hereby ordered: That Associate Justice B. T. Hainer be and he is hereby assigned to said Second Judicial District during the absence of said Justice Irwin, and said Justice Hainer is designated to hold the courts in said Second Judicial District, and hear, try and determine all causes pending in said District or that may arise therein during the absence of the regular Judge, either in court or chambers.

It is further ordered: That the Clerk transmit a certified copy of this order, under the signature and seal of his office, to Justice Hainer and the Clerk of the Second District.

Done at Chambers in the City of Guthrie--this 14th day of July, 1900.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

John H. Burford,
Chief Justice .

(THIS BELONGS IN PROCEEDINGS OF JUNE 5th)

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

#117.

Veeder B. Paine,
Plaintiff in error,
vs.
John W. Foster, W.S. Robertson, and
A.C. Schnell, Trustees of Townsite
Board Number Six,
Defendants in error.

O R D E R.

Now on this 5th day of June, 1900, this cause comes on for hearing upon the motion of the plaintiff in error to supply the files of said cause by the substitution of the petition in error for the original which is shown to have become lost or mislaid. On hearing said motion, it is considered, ordered and adjudged that said motion be sustained, and the files of said cause supplied by the filing of said petition in error, presented with said motion.

Done by order of the court the day and year above written.

John H. Burford,
Chief Justice.

SUPREME COURT PROCEEDINGS IN VACATION.

IN THE SUPREME COURT OF OKLAHOMA TERRITORY.

#953.

John Romig and Daniel W. Harding,
Plaintiffs in error,
vs.

Myrtle Gillett,
Defendant in error.

PETITION FOR REHEARING.

Comes the petitioners and moves the court to grant them a rehearing in this cause for the following reasons:

FIRST. Daniel W. Harding, one of the petitioners, is an innocent purchaser of the land in controversy for a valuable consideration and is now in possession of said land and has been for three years last past under said purchase and has made lasting and valuable improvements on said land of the value of five thousand dollars. (See case-made pages 53 and 60.) We think the court has overlooked Sections 3355, 4468, 4360 and 1540 of the Oklahoma Statutes, 1893. Section 3355 reads in part as follows: "but the title to any property the subject of the judgment or order sought to be opened which by it, or in consequence of it shall have passed to a purchaser in good faith shall not be affected by any proceedings under this section."

Sec. 4360 reads: "If any judgment or judgments in satisfaction of which any lands or tenements are sold shall at any time thereafter be reversed, such reversal shall not defeat or affect the title of the purchaser." See-- Howard v. Entreken, 24 Kan. 429; Walkenhorst v. Lewis, 24 Kan. 426; Jones v. Lapham, 15 Kan. 546.

SECOND. This not being a personal judgment but a judgment against the land only, the Court had jurisdiction. The judgment and sale are not void.

That the judgment is not void we call the attention of the court to the following authorities which we think must have been overlooked:

In Larimer v. Krogge, 43 Kan., 349, Judge Valentine says: "it is the notice published that gives the court jurisdiction, not the affidavit for the notice." On page 348, id., he says "That the affidavit and all matters set up in it for an order of publication may be false, yet the judgment is not void." On page 349, id., the Court again says, "If the notice published is correct, that gives the Court jurisdiction."

Head v. Daniels, 38 Kan., 7, the Court says, "That if any part of the affidavit for notice is good the judgment is not void." -- Washburn v. Buchanan, 34 Pac., 1049; Decorat v. Dolan, 35 Pac., 72; Denman v. McGuire, 101 N.Y., 161; Quarles v. Abbott, 102 Ind. 273; Jackson v. State, 104 Ind., 516; Essig v. Lowe, 120 Ind., 239; Ballinger v. Tarball, 16 Iowa, 491; Ogden v. Walters, 12 Kan., 282.

THIRD. It will be seen on pages 53, 82 and 83 case-made, an order was made to put Myrtle Gillett into the possession of the land, which we claim can not be done. The petitioner, Daniel W. Harding, having gone into possession under his purchase he cannot be ejected or dispossessed until the mortgage and all expenses have been fully paid.-- Probst v. Brock, 10 Wall, U.S. 519; Teadman Equity Jurisprudence, Sec. 443; Evans v. Pike, 118 U.S., 241.

Although the foreclosure may

SUPREME COURT PROCEEDINGS IN VACATION.

ORDER ASSIGNING CHIEF JUSTICE BURFORD TO CLEVELAND COUNTY DISTRICT COURT.

IN THE SUPREME COURT, TERRITORY OF OKLAHOMA.

In the matter of the assignment of a Judge to hold the District Court of Cleveland County.

Now on this 11th day of May 1900, it having been made to appear to my satisfaction that the Hon. B.F. Burwell, presiding Judge of the Third Judicial District, is absent from his District and is unable to open and preside in the District Court of Cleveland County at the May Term 1900-- It is now therefore by me ordered that John. H. Burford, Chief Justice of the Supreme Court, be and he is hereby assigned to the Third Judicial District, during the absence of said regular Judge, and is assigned to the District Court of Cleveland County, and ordered to hold said Court and hear, try and determine any and all causes pending therein and make all necessary orders pertaining to said Court.

It is further ordered : That the Clerk transmit a certified copy of this order, under the signature and seal of his office, to the Clerks of the District Courts of Oklahoma and Cleveland Counties.

Witness my hand this 11th day of May, 1900.

Attest:
(Seal) Benj. F. Hegler,
Clerk Supreme Court.

Jno. H. Burford,
Chief Justice.

#953.
Romig, et al.,
Plaintiffs in error,
vs.
Gillett,
Defendant in error.

July 13, 1900. It is ordered that mandate in this case be stayed until September 4th 1900.

Jno. H. Burford,
Chief Justice,

#941.
Collins, et al.,
Plaintiffs in error,
vs.
Green, Treasurer,
Defendant in error.

Now on this 13th day of July, 1900, come the above named plaintiffs in error and present to the undersigned, Chief Justice of the supreme court of Oklahoma Territory, their petition for rehearing in said cause as filed therein, and ask the undersigned Chief Justice of the supreme court to grant an order staying the mandate in said cause, and upon consideration of such petition, it is by the undersigned Chief Justice of said supreme court ordered that until the 4th day of September, 1900, the mandate in said cause be stayed.

Jno. H. Burford,
Chief Justice.

#942.
Lasater, et al.,
Plaintiffs in error,
vs.
Green, Treasurer,
Defendant in error.

Now on this 13th day of July, 1900, come the above named plaintiffs in error and present to the undersigned, Chief Justice of the supreme court of Oklahoma Territory, their petition for rehearing in said cause as filed therein, and ask the undersigned Chief Justice of the supreme court to grant an order staying the mandate in said cause, and upon consideration of such petition, it is by the undersigned Chief Justice of said supreme court ordered that, the mandate in said cause be stayed until September 4th 1900.

Jno. H. Burford,
Chief Justice.

S U P R E M E C O U R T, J U N E 1900, T E R M. J U N E 30, 6th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Thirtieth day of June, 1900, the Supreme Court of the Territory of Oklahoma convened in special session for the June 1900 term pursuant to law, and to adjournment.

Present, the Honorable Jno. H. Burford, Chief Justice; the Honorables Jno. L. McAtee, Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Horace Speed, United States Attorney; C. H. Thompson, United States Marshal, and John C. Orner, Court Crier.

Public proclamation having been duly made for the opening of the Court for the transaction of business, the following proceedings were had, to-wit:

#736.
John A. McFadyen and
Sarah Brown,
Plaintiffs in error,
vs.
H. C. Masters, Sheriff,
Defendant in error.

And now this cause comes on for hearing by the Court, upon the application of plaintiff in error for a rehearing of the same.

And the Court having duly considered said application and being fully advised in the premises, finds that the same should be granted.

It is therefore ordered and adjudged by the Court that a rehearing of this cause be, and the same is hereby granted.

#744.
Territory of Oklahoma, ex rel,
Harper S. Cunningham, as Attorney Gen.
Plaintiff in error,
vs.
Richard F. Caffrey, as County Clerk
of Oklahoma Co. O.T.
Defendant in error.

Journal Entry.

WHEREAS, on the 21st day of September, 1898, a peremptory writ of mandamus issued out of this court to the defendant, which said writ contained the following order:

"Now Therefore, Having fully heard and considered the mandamus proceedings brought against you in the above behalf, you are hereby commanded, immediately after the receipt of this writ, or the service of the same upon you, to perform the order and direction of said Territorial Board of Equalization in this, to-wit: That you add to the assessed valuation of the property of each person in Oklahoma County, Oklahoma Territory, for the year 1898, the percentage of twenty-four per centum of the assessed valuation of the property in said County returned for the year aforesaid, all as above set forth, and of this writ and what you have done thereunder make due return within ten days from the date of the service of the same upon you, and that you fail not at your peril to obey this order." And

Whereas, on the 23rd day of November, 1898, a citation was duly issued in said cause, commanding the said Richard F. Caffrey to appear before the Supreme Court of the Territory of Oklahoma on Friday, the 2nd day of December, 1898, at ten o'clock A. M. of said day, to show cause why he should not be punished for a contempt of said court for failing, neglecting, and refusing to obey the peremptory writ of mandamus of said court issued on the 21st day of September, 1898 in said cause, and

Whereas, on the 2nd day of December, 1898, at a session of the Supreme Court of said Territory, said matter coming on to be heard upon the citation aforesaid and the answer of the said Caffrey to said citation, it was found and adjudged by said court that the said Richard F. Caffrey had not complied with the commands of the said peremptory writ of mandamus or performed the duties therein required of him, and that he had shown no legal excuse for said failure, and the following judgment was then and there entered, to-wit:

S U P R E M E C O U R T , J U N E 1900, T E R M . J U N E 30, 6th J U D I C I A L D A Y .

"It is now ordered and adjudged by the court that the said Richard F. Caffrey is in contempt of this court. And it is further ordered that he be imprisoned in the county jail of Oklahoma County, until such time as he shall in all things perform the duties and do the things required of him, as commanded in said peremptory writ of mandamus. And the sheriff of said Oklahoma County is hereby commanded to immediately arrest the said Richard F. Caffrey, and commit him to said jail.

It is further ordered that if the said Richard F. Caffrey shall file with the sheriff of said Oklahoma County his affidavit, to the effect that he is ready and willing to at once begin the work of extending said taxes upon the tax rolls of said County, as commanded in said writ, and carry the same on to completion as rapidly as the same can be done; and that he will promptly and energetically perform all the requirements of said writ, then the said sheriff shall release him from imprisonment, in order to enable him to perform said duties, and the said commitment shall be suspended until the further order of this Court." And

WHEREAS, It has been made to appear to this court that in compliance with said order the sheriff of Oklahoma County arrested the said Richard F. Caffrey and committed him to the county jail of said county; and it further appearing to the court that while so imprisoned as aforesaid the said defendant Caffrey was on an order of one of the Justices of the Supreme Court of the United States released from custody pending an appeal from the judgment of this court to said Supreme Court of the United States in said matter; and it further appearing to this court by the mandate of the Supreme Court of the United States that said cause has been dismissed in the Supreme Court of the United States for want of jurisdiction therein, and that said former order of this court is still in full force and effect,

IT IS NOW BY THIS COURT HEREBY ORDERED That the sheriff of Oklahoma County shall retake the said Richard F. Caffrey into his custody and confine him in the jail of Oklahoma County pursuant to the order heretofore made in this cause adjudging the said Richard F. Caffrey guilty of a contempt of this court, and that he keep the said Caffrey safely confined in said jail until he shall have complied with the said order and judgment of this court, made and entered of record on said 2nd day of December, 1898.

#964.

Jane Wilson,
Plaintiff in error,
vs.
Wallace Wood, Jr., and
A.P. Bond and W.J. Patterson,
Defendants in error.

And now this cause comes on for final determination by the Court upon the record, briefs and oral argument submitted therein.

And the court having duly examined the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed. It is therefore ordered and adjudged by the court, that the judgment of the lower court in this cause be, and the same is hereby affirmed.

Opinion by Burford, C.J., all the justices concurring, except Burwell, J., who tried the cause below.

#976.

A.F. Streight and G.N. Worthen,
Partners doing business under
the firm name of Shawnee
Hardware Company.
Plaintiffs in error,
vs.
William M. Durham, Treasurer,
Defendant in error.

And now this cause comes on for final determination and decision by the court, upon the record and briefs submitted therein. And the court having duly considered the same, and being fully advised in the premises, finds that the judgment of the lower court in this cause should be sustained at the cost of plaintiff in error.

It is therefore ordered and adjudged by the court, that the judgment of the lower court in this cause be, and the same is hereby sustained at the cost of the plaintiff in error. Opinion by Hainer, J., all the justices concurring, except Burwell, J., who tried the cause below, not sitting, and McAtee, J., not sitting.

S U P R E M E C O U R T . J U N E 1 9 0 0 . T E R M . J U N E 3 0 . 6 t h J U D I C I A L D A Y .

#977.

Sam Rose,
Plaintiff in error,
vs.
William M. Durham, Treasurer,
Defendant in error.

And now this cause comes on for final determination and decision by the court, upon the record and briefs submitted therein. And the court having duly considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be sustained at the cost of the plaintiff in error.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby sustained at the cost of the plaintiff in error. Opinion by Hainer, J., all the justices concurring, except Burwell, J., who tried the cause below not sitting, and McAtee, J., not sitting.

#947.

J. A. Wilson,
Plaintiff in error,
vs.
James H. McCornack,
Defendant in error.

And now this cause comes on for decision and final determination by the court, upon the record and briefs submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed at the cost of plaintiff in error.

It is therefore ordered and adjudged by the court: That the judgment of the lower court in this cause, be and the same is hereby affirmed at the cost of plaintiff in error. Opinion by Hainer, J.,

#890.

Henry R. Herbein,
Plaintiff in error,
vs.
A. E. Moore, and
Frank Reinhart,
Defendants in error.

And now this cause comes on for final determination by the court, upon the record and briefs submitted therein.

And the court having duly examined the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the court: That the judgment of the lower court in this cause be and the same is hereby affirmed. Opinion by Hainer, J.

#925.

Louis Maass, Guardian of
Conrad Maass,
Plaintiff in error,
vs.
W. H. Phillips, Sheriff,
Defendant in error.

And now this cause comes on for final decision by the court, upon application of petitioner and the briefs submitted therein. And the court having duly considered said application, and the briefs and argument submitted therein, together with the showing in opposition thereto, and being fully advised in the premises, finds that the writ asked by petitioner should be denied.

It is therefore ordered and adjudged by the court: That the writ of Habeas Corpus herein asked by the petitioner herein, be and the same is hereby denied. Opinion by Burwell, J., all the justices concurring.

SUPREME COURT, JUNE 1900. TERM. JUNE 30. 6th JUDICIAL DAY.

#949.
Harry R. Decker,
Plaintiff in error,
vs.
S. D. Cahill,
Defendant in error.

And now this cause comes on for final decision by the court, upon the record, oral argument and briefs submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed, at the cost of the plaintiff in error.

It is therefore ordered and adjudged by the court: That the judgment of the lower court in this cause be and the same is hereby affirmed, at the cost of the plaintiff in error. Opinion by Burwell, J., all the justices concurring except Burford, C.J., who presided at the trial of the cause below.

#960.
William Mulkins,
Plaintiff in error,
vs.
The United States,
Defendant in error.

And now this cause comes on for final determination and decision by the court, upon the record and briefs of plaintiff in error submitted therein. And the court having duly considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be reversed, and the cause remanded thereto for a new trial thereof.

It is therefore ordered and adjudged by the court: That this cause be reversed and remanded at the cost of the appellee, and the defendant held to await the action of the district court of Canadian County. Opinion by Burwell, J., all of the justices concurring except McAtee, J., who presided at the trial of the cause below not sitting.

#941.
John Collins and
D.F. Wallace,
Plaintiffs in error,
vs.
N. J. Green, Treasurer,
Defendant in error.

And now this cause comes on for final decision by the court, upon the record and briefs submitted therein. And the court having duly considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed at the cost of Plaintiff in error. Opinion by Burwell, J., all of the justices concurring, except Hainer, J., who presided at the trial below, not sitting.

#942.
Ed C. Lasater and
G.A. Noble,
Plaintiffs in error,
vs.
N. J. Green, Treasurer,
Defendant in error.

And now this cause comes on for final decision by the court, upon the record and briefs submitted therein. And the court having duly considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed at the cost of Plaintiff in error. Opinion by Burwell, J., all of the justices concurring, except Hainer, J., who presided at the trial below, not sitting.

S U P R E M E C O U R T J U N E 1 9 0 0 . T E R M . J U N E 3 0 . 6 t h J U D I C I A L D A Y .

#943.

M. Halff and Bro.,
Plaintiff in error,
vs.
N. J. Green, Treasurer, et al.,
Defendants in error.

And now this cause comes on for final decision by the court, upon the record and briefs submitted therein. And the court having duly considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed at the cost of plaintiff in error.

Opinion by Burwell, J., all of the justices concurring, except Hainer, J., who presided at the trial below, not sitting.

#955.

R. R. Russell,
Plaintiff in error,
vs.
N. J. Green, Treasurer, et al.,
Defendants in error.

And now this cause comes on for final decision by the court, upon the record and briefs submitted therein. And the court having duly considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed at the cost of plaintiff in error.

Opinion by Burwell, J., all of the justices concurring, except Hainer, J., who presided at the trial below, not sitting.

#969.

Board of County Commissioners
of Garfield County, O.T.
Plaintiffs in error,
vs.
J. T. Isenburg, Successor to The
Wave Printing Company.
Defendant in error.

And now this cause comes on for final decision by the court, upon the record and briefs of party submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed, at the cost of plaintiff in error.

It is therefore ordered and adjudged by the court: That the decision of the lower court in this cause be, and the same is hereby affirmed at the cost of the plaintiff in error.

Opinion by Irwin, J., all the justices concurring except McAtee, J., who presided at the trial of the cause below, not sitting.

#906.

Robert Higgins, and
S. A. Higgins,
Plaintiffs in error,
vs.
William Butler and
Mariah Butler,
Defendants in error.

And now this cause comes on for final determination and decision by the court, upon the record and briefs submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds that the decision of the lower court in this cause should be affirmed at the cost of plaintiff in error.

It is therefore ordered, adjudged and decreed by the court: That this cause be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Irwin, J., all the justices concurring except Burwell, J., who presided in the cause below, and McAtee, J., not present.

SUPREME COURT, JUNE 1900. TERM. JUNE 30. 5th JUDICIAL DAY.

#983.
D. V. Hanenkratt,
Plaintiff in error,
vs.
Nellie M. Hamil,
Defendant in error.

And now this cause comes on for final decision by the court, upon the record and briefs submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds that the decision of the lower court in this cause should be affirmed at the cost of plaintiff in error.

It is therefore ordered and adjudged by the court: That the decision of the lower court in this cause, be and the same is hereby affirmed at the cost of the plaintiff in error. Opinion by Irwin, J., all the justices concurring, except Chief Justice Burford, who presided below, not sitting, and McAtee, J., not present.

#982.
John Y. Foust,
Plaintiff in error,
vs.
The Territory of Oklahoma.
Defendant in error.

And now this cause comes on for decision by the court, upon the record therein, no briefs having been submitted.

And the court having duly considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed at the cost of plaintiff in error.

It is therefore ordered and adjudged by the court: That the decision of the lower court in this cause, be and the same is hereby affirmed at the cost of plaintiff in error.

#969.
Board of County Commissioners
of Garfield County, O. T.
Plaintiffs in error,
vs.
J. T. Isenburg, Successor to The
Wave Printing Company,
Defendant in error.

And now this cause comes on for final decision by the court, upon the record and briefs submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed, at the cost of plaintiff in error.

It is therefore ordered and adjudged by the court: That the judgment of the lower court in this cause, be and the same is hereby affirmed at the cost of plaintiff in error. Opinion by Irwin, J., all the justices concurring except McAtee, J., who presided at the trial of the cause below, not sitting.

#963.
Robert Morford,
Plaintiff in error,
vs.
The Territory of Oklahoma,
Defendant in error.

Ordered by the court: That this cause be now dismissed, at the cost of Plaintiff in error no briefs having been filed.

SUPREME COURT, JUNE 1900, TERM, JUNE 30, 6th JUDICIAL DAY.

#974.

J. W. Fox, D. B. Kinder,
Plaintiffs in error,
vs.
Territory of Oklahoma,
Defendant in error.

Comes now C. G. Hornor as counsel for plaintiff in error and asks leave to file his motion to reinstate the appeal herein.

NATURALIZATION OF ELLEN WILLIAMS.

UNITED STATES OF AMERICA,)
Territory of Oklahoma,) ss.
Logan County,)

BE IT REMEMBERED, That at a Term of the Supreme Court holden in and for said Territory, in Guthrie therein, on the 30th day of June, in the year of Our Lord One Thousand Nine Hundred and was present the Honorable Jno. H. Burford, Chief Justice, presiding; C. H. Thompson, U. S. Marshal of said Oklahoma Territory; and Benj. F. Hegler, Clerk of said Court, when the following among other proceedings, were had, to-wit: Ellen Williams (formerly Ellen Boys), a native of England, and at present residing within said Territory, appeared in open Court and made application to be admitted to become A Citizen of the United States, And it appearing to the satisfaction of the Court, that she had declared on oath, as Ellen Boys, before the District Court of Logan County, O. T., a Court of Record having common law jurisdiction, and using a seal, two years at least before this admission, that it was bona-fide her intention to become a citizen of the United States, and to renounce forever all allegiance to any foreign Prince, Potentate, State, or Sovereignty whatsoever, and particularly to Victoria, Queen of Great Britian and Irland, and Empress of India, of whom she was heretofore a subject; and said applicant having declared on oath, before this Court, that she will support the Constitution of the United States, and that she doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign Prince, Potentate, State, or Sovereignty whatsoever, and particularly to Victoria, Queen of Great Britian and Irland, and Empress of India of which she was heretofore a subject; the Court being satisfied that said applicant has resided within the United States for the term of five years next preceding her admission, without being at any time during the said five years out of the Territory of the United States, and within this Territory one year at least; and it further appearing to the satisfaction of this Court, that during that time she has behaved as a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same.

WHEREUPON, It is Ordered by the Court, That the said Ellen Williams (formerly Ellen Boys), be and is hereby admitted to become a citizen of the United States.

In Testimony Whereof, I, Benj. F. Hegler, Clerk of the Court aforesaid, have hereunto set my hand and affixed the Seal of said Court, at my office in Guthrie, in said County, and Territory, this June 30th, 1900.

(Seal)

Benj. F. Hegler,
Clerk Supreme Court.

SUPREME COURT, JUNE 1900, TERM. JUNE 30, 6th JUDICIAL DAY.

NATURALIZATION OF EDWARD BUZZI.

UNITED STATES OF AMERICA,)
Territory of Oklahoma,) ss.
Logan County.)

BE IT REMEMBERED, That at a Term of the Supreme Court holden in and for said Territory, in Guthrie therein, on the 30th day of June, in the Year of Our Lord One Thousand Nine Hundred, was present the Honorable Jno. H. Burford, Chief Justice presiding; C. H. Thompson, U. S. Marshal of said Oklahoma Territory; and Benj. F. Hegler, Clerk of said Court, when the following among other proceedings, were had, to-wit: Edward Buzzi, a native of Switzerland, and at present residing within said Territory, appeared in open Court and made application to be admitted to become A Citizen of the United States, And it appearing to the satisfaction of the Court that he had declared on oath, before the District Court of Logan County, O.T., a Court of Record having common law jurisdiction, and using a seal, two years at least before his admission, that it was bona-fide intention to become a citizen of the United States, and to renounce forever all allegiance to any foreign Prince, Potentate, State, or Sovereignty whatsoever, and particularly to The President of the Swiss Republic, of whom he was heretofore a subject; and said applicant having declared on oath, before this Court, that he will support the Constitution of the United States, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign Prince, Potentate, State, or Sovereignty whatsoever, and particularly to The President of the Swiss Republic, of which he was heretofore a subject; the Court being satisfied that said applicant has resided within the United States for the term of five years next preceding his admission, without being at any time during the said five years out of the Territory of the United States, and within this Territory one year at least; and it further appearing to the satisfaction of this Court, that during that time he has behaved as a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same.

WHEREUPON, It is Ordered by the Court, That the said Edward Buzzi be and is hereby admitted to become a citizen of the United States.

IN TESTIMONY WHEREOF, I, Benj. F. Hegler, Clerk of the Court aforesaid, have hereunto set my hand and affixed the Seal of said Court, at my office in Guthrie, in said County, this 30th, June, 1900.

(Seal) Benj. F. Hegler,
Clerk Supreme Court.

#117.
Veeder, B. Paine,
Plaintiff in error,
vs.
John Foster, et al.,
Defendants in error.

Comes now A. G. C. Bierer of counsel for plaintiff in error, and asks to be allowed to substitute part of record.

And said application is allowed and counsel directed to prepare and submit said substitute.

#970.
P. C. Kramer,
Plaintiff in error,
vs.
John Ewing,
Defendant in error.

And now this cause comes on for final determination and decision by the court, upon the record, oral argument and briefs submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed at the cost of plaintiff in error.

SUPREME COURT, JUNE 1900, TERM JUNE 30, 6th JUDICIAL DAY.

It is therefore ordered and adjudged by the Court: That the decision of the lower court herein, be and the same is hereby affirmed at cost of plaintiff in error.

Opinion by Burford, C.J., all the justices concurring, except Burwell, J., who tried the cause below.

#972.

In re
J. O. Comstock,
(Habeas Corpus)

And now this cause comes on for decision and final determination by the court, upon the application of petitioner for the writ of Habeas Corpus herein.

And the court having duly considered said petition, and the evidence adduced in support thereof, and having duly considered the same and being fully advised in the premises, finds that the writ herein asked for, should be allowed and that petitioner should be discharged.

It is therefore ordered and adjudged by the court: That the writ of Habeas Corpus herein asked, be and the same is hereby allowed.

It is further ordered by the Court: That said petitioner be discharged from custody.

#928.

Charles L. Walters,
Plaintiff in error,
vs.
John A. Ratliff, Sheriff,
Defendant in error.

And now this cause comes on for final decision by the court, upon the record and briefs submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause, should be affirmed at the cost of plaintiff in error.

It is therefore ordered and adjudged by the court: That the judgment of the lower court herein, be and the same is hereby affirmed at the cost of plaintiff in error. Opinion by Burford, C. J., all the justices concurring.

#889.

Ed. L. Dunn,
Plaintiff in error,
vs.
Annie L. Yakish and
W. H. Yakish,
Defendants in error.

And now this cause comes on for final decision by the court, upon the record, oral argument and briefs submitted therein.

And the court having duly considered said cause and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed at the cost of plaintiff in error.

It is therefore ordered and adjudged by the court: That the judgment of the lower court in this cause, be and the same is hereby affirmed at the cost of plaintiff in error. Opinion by Burford, C.J., all of the justices concurring, except Burwell, J., who tried the cause below.

#517.

John Reeves,
Plaintiff in error,
vs.
The Territory of Oklahoma,
Defendant in error.

And now this cause comes on for final decision by the court, upon the record and briefs submitted therein.

S U P R E M E C O U R T, J U N E 1900. T E R M. J U N E 30. 6th J U D I C I A L D A Y.

And the court having duly considered the same and being fully advised in the premises, finds that the decision of the lower court should be affirmed at the cost of plaintiff in error.

It is therefore ordered and adjudged by the court: That the decision of the lower court in this cause, be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Hainer, J.

#950.
John Veseley, et al.,
Plaintiffs in error,
vs.
Elizabeth Engelkekier,
Defendant in error.

And now this cause comes on for final decision by the court, upon the record, briefs and oral argument therein.

And the court having duly considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause should be affirmed at the cost of plaintiff in error.

It is therefore ordered and adjudged by the court: That the judgment of the lower court in this cause, be and the same is hereby affirmed at the cost of plaintiff in error. Opinion by Burwell, J.

ORDER FIXING TERMS OF COURT IN THIRD JUDICIAL DISTRICT FOR CERTAIN COUNTIES.

Ordered by the Court: That Terms of District Court for the Third Judicial District, be and they are hereby fixed as follows, to-wit:

For the County of Oklahoma, at Oklahoma City, Saturday, July 7, 1900.

For the County of Greer, at Mangum, Tuesday, September 11, 1900.

For the County of Pottawatomie, at Tecumseh, Tuesday, October 9, 1900.

It is further ordered by the court: That the Clerk transmit a certified copy of this order, under the signature and seal of his office, to each of the District Courts of the Territory, and to the United States Attorney and United States Marshal.

Jno. H. Burford,
Chief Justice.

Attest:
Benj. F. Hegler,
(Clerk Supreme Court).

#934.
Spencer E. Sanders,
Plaintiff in error,
vs.
The Chicago, Rock Island and
Pacific Ry. Co.
Defendant in error.

And now this cause comes on for final decision by the court, upon the record and briefs submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds that the judgment of the lower court in this cause, should be affirmed at cost of plaintiff in error.

It is therefore ordered and adjudged by the court: That the judgment of the district court in this cause, be and the same is hereby affirmed at the cost of plaintiffs in error.

Opinion by Burwell, J., all the justices concurring, excepting McAttee, J., who presided below.

S U P R E M E C O U R T. J U N E 1900. T E R M. J U N E 30. 6th J U D I C I A L D A Y.

#980.

Hansur & Tebbetts,
Implement Company,
Plaintiff in error,
vs.
George R. Willet,
Defendant in error.

And now this cause comes on for final decision by the court, upon the record and briefs submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds, that the judgment of the lower court should be affirmed at the cost of plaintiff in error.

Opinion by Burwell, J., all of the justices concurring, excepting Hainer, J., who tried the cause below.

#921.

The Territory of Oklahoma,
Plaintiff in error,
vs.
T. M. Richardson, Jr.,
Defendant in error.

And now this cause comes on for final decision by the court, upon the record and briefs submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds, that the judgment of the lower court in this cause, should be affirmed at the cost of the plaintiff in error.

It is therefore ordered and adjudged by the court: That the judgment of the lower court in this cause be affirmed at the cost of the plaintiff in error, and the appeal dismissed.

Opinion by McAtee, J., all of the justices concurring, excepting Hainer, J., who presided below.

#991.

Martin L. Cecil,
Plaintiff in error,
vs.
Board of County Commissioners,
of Washita Co.
Defendants in error.

And now this cause comes on for final decision by the court, upon the record, oral argument and briefs submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds, that the judgment of the lower court in this cause, should be affirmed at the cost of plaintiff in error.

It is therefore ordered and adjudged by the court: That the judgment of the lower court in this cause, be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by McAtee, J., all of the justices concurring, excepting Irwin, J., who tried the cause below

#544.

Territory of Oklahoma,
Plaintiff in error,
vs.
Andrew Cooper, et al.,
Defendants in error.

And now this cause comes on for final decision by the court, upon the record, briefs and oral argument submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds, that the judgment of the lower court in this cause should be reversed at the cost of defendant in error, and the cause remanded to said lower court for trial and further proceedings.

Opinion by McAtee, J., all the justices concurring.

S U P R E M E C O U R T, J U N E 1 9 0 0. T E R M. J U N E 3 0. 6 t h J U D I C I A L D A Y.

#922.

W. F. Pierce, Sheriff,
Plaintiff in error,
vs.
Elizabeth Engelkemer,
Defendant in error.

And now this cause comes on for final decision by the court, upon the record and briefs submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds, that the judgment of the lower court in this cause, should be affirmed at the cost of the plaintiff in error.

It is therefore ordered and adjudged by the court: That the judgment of the lower court, be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by McAtee, J., all the justices concurring, excepting Hainer, J., who presided at the cause below.

#968.

In re:
Harry Plummer McCool,
(Habeas Corpus)

And now this cause comes on for final decision by the court, upon the application of the petitioner for a writ of Habeas Coapus herein.

And the court having duly considered the same and being fully advised in the premises, finds, that the petitioners application should be dismissed for want of jurisdiction.

It is therefore ordered and adjudged by the court: That the application of petitioners herein, be and the same is hereby denied for want of jurisdiction, at the cost of petitioners.

Opinion by Burford, C.J., all the justices concurring.

#954.

S. J. Jordan,
Plaintiff in error,
vs.
Lelah Davis,
Defendant in error.

And now this cause comes on for final decision by the court, upon the record and briefs submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds, that the judgment of the lower court in this cause should be affirmed at the cost of plaintiff in error; and that mandate issue at once.

It is therefore ordered and adjudged by the court: That the decision of the lower court in this cause, be and the same is hereby affirmed at the cost of plaintiff in error.

Opinion by Burford, C. J., all the justices concurring, excepting Irwin, J., who presided in the court below.

#952.

N. Randolph,
Plaintiff in error,
vs.
John Hudson,
Defendant in error.

And now this cause comes on for final decision by the court, upon the record and briefs submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds, that the judgment of the lower court in this cause should be reversed, at the cost of defendant in error.

It is therefore ordered and adjudged by the court: That the judgment of the lower court in this cause, be and the same is hereby reversed at the cost of defendant in error. Opinion by Burford, C.J., all the justices concurring, excepting McAtee, J., who tried the cause below.

S U P R E M E C O U R T , J U N E 1 9 0 0 . T E R M . J U N E 3 0 . 6 t h J U D I C I A L D A Y .

#797.

J. E. Petrie,
Plaintiff in error,
vs.
J. M. Coulter, Receiver,
Defendant in error.

And now this cause comes on for final decision by the court, upon the record and briefs submitted therein, oral argument having been waived.

And the court having duly considered said record and briefs and being fully advised in the premises, finds, that the judgment of the lower court in this cause should be affirmed at the cost of plaintiff in error.

It is therefore ordered and adjudged by the court: That the decision of the lower court in this cause, be and the same is hereby affirmed, at the cost of plaintiff in error.

Opinion by McAtee, J., all the justices concurring.

#973.

Rosetta Ward, et al.,
Plaintiff in error,
vs.
The Board of County Commissioners,
of Logan County, O. T.
Defendants in error.

And now this cause comes on for final decision by the court, upon the record and briefs submitted therein.

And the court having duly considered the same and being fully advised in the premises, finds, that the appeal herein was improperly taken and should be dismissed at the cost of appellants.

It is therefore ordered and adjudged by the court: That the appeal in this cause, be and the same is hereby dismissed.

Opinion by McAtee, J., (not filed)

#944.

F. A. Richardson, et al.,
Plaintiffs in error,
vs.
Elisha Penny,
Defendant in error.

And now this cause comes on for consideration by the court, upon the application for leave to file a motion to modify the judgment herein.

And the court having duly considered the same and being fully advised in the premises, finds, that said application should be denied.

It is therefore ordered and adjudged by the court: That the application for leave to file a motion to modify the judgment in this cause, be and the same is hereby denied.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

943.
Halff & Bro.
Plaintiffs in error,
vs.
Green, Treasurer,
Defendant in error.

Now on this 13th day of July, 1900, come the above named plaintiffs in error and present to the undersigned, Chief Justice of the supreme court of Oklahoma Territory, their petition for rehearing in said cause as filed therein, and ask the undersigned Chief Justice of the supreme court to grant an order staying the mandate in said cause, and upon consideration of such petition, it is by the undersigned Chief Justice of said supreme court ordered that the mandate in said cause be stayed until September 4th 1900.

Jno. H. Burford,
Chief Justice.

ORDER ASSIGNING JUSTICE HAINER TO THIRD JUDICIAL DISTRICT.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

In Chambers.

It having been made to appear to my satisfaction that Hon. B. F. Burwell, presiding Judge of the Third Judicial District is absent from the Territory and therefore unable to discharge the duties of Judge in and for said District.

It is now by me ordered: That Associate Justice, B.T.Hainer, be and he is hereby assigned to said Third Judicial District, to try, hear and determine any and all matters pending, or to be brought in the District Courts of said District during the absence of said regular presiding Judge, and the Clerk of the Supreme Court is ordered to transmit a copy of this order to Judge Hainer and also to the Clerk of the Third District. This July 13th 1900.

Jno. H. Burford,
Chief Justice.

Attest:
Benj. F. Hegler,
Clerk Supreme Court.

ORDER ASSIGNING JUSTICE HAINER TO FIRST JUDICIAL DISTRICT.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

In Chambers.

It having been made to appear to my satisfaction that a change of Judge has been granted in the case of Horace Speed vs. Hila W. Smith, now pending in the District Court of Logan County, Oklahoma, and it further appearing that the presiding Judge of the First Judicial District will be absent from the Territory for a period of thirty days from and after the 15th day of July, 1900.

It is now by me hereby ordered: That Associate Justice B. T. Hainer, be and he is hereby designated to try, hear and determine the said case of Horace Speed vs. Hila W. Smith, and all motions and proceedings therein, that may be had in Chambers; and said Justice Hainer is assigned to the First Judicial District, to hear, try and determine all matters or causes pending, or that may be brought in said District during the absence of the regular presiding Judge, and the Clerk is directed to record this order and transmit a copy hereof to the Clerk of the First District, and also to Justice Hainer.

This July 14, 1900.

Jno. H. Burford,
Chief Justice.

Attest:
Benj. F. Hegler,
Clerk Supreme Court.

SUPREME COURT PROCEEDINGS IN VACATION.

906.

Robert H. Higgins, et al.,
Plaintiffs in error,
vs.
William Butler, et al.,
Defendants in error.

Be it REMEMBERED that on this 12th day of July, A.D. 1900, the above named plaintiffs in error presented to the undersigned, one of the judges of the supreme court of the Territory of Oklahoma, their petition for a review and rehearing of said case, and the undersigned having examined the same and being advised in the premises, it is hereby ordered that the mandate in said case be stayed and not issued by the clerk of said court until said case can be heard upon said petition for review and rehearing.

Bayard T. Hainer,
Associate Justice of the Supreme
Court of the Territory of Okla.

(IN SUPREME COURT PROCEEDINGS OF JUNE 30th 1900.)

#744.

Territory of Oklahoma, ex rel.,
Harper S. Cunningham, as Attorney
General,
Plaintiff in error,
vs.
Richard Caffrey, as County Clerk
of Oklahoma County, O.T.
Defendant in error.

And now the mandate from the Supreme Court of the United States in this cause is presented to the court and said mandate reads in words and figures as follows, to-wit:

UNITED STATES OF AMERICA, ss.

The President of the United States of America,

To the Honorable the Judges of the Supreme Court of the Territory of Oklahoma.

GREETING:

WHEREAS, lately in the Supreme Court of the Territory of Oklahoma before you, or some of you, in a cause between The Territory of Oklahoma on the relation of Harper S. Cunningham, Attorney General, plaintiff, and Richard F. Caffrey, as County Clerk of Oklahoma County, Oklahoma Territory, defendant, wherein the judgment of the said Supreme Court, entered in said cause, was in favor of the said plaintiff, The Territory of Oklahoma on the relation of Harper S. Cunningham, Attorney General, and against the said defendant, as by the inspection of the transcript of the record of the said Supreme Court, which was brought into the Supreme Court of the United States by virtue of a writ of error and an appeal agreeably to the act of Congress, in such case made and provided, fully and at large appears.

AND WHEREAS, in the present term of October, in the year of our Lord one thousand eight hundred and ninety-nine, the said cause came on to be heard before the said Supreme Court, on the said transcript of record, and was argued by counsel:

ON CONSIDERATION WHEREOF, It is now here ordered and adjudged by this Court that the writ of error in this cause and this appeal be, and the same are hereby dismissed for the want of jurisdiction. April 9, 1900

You, therefore, are hereby commanded that such proceedings be had in said cause, as according to right and justice, and the laws of the United States, ought to be had, the said writ of error and appeal, notwithstanding.

WITNESS the Honorable MELVILLE W. FULLER, Chief Justice of the United States, the 26th day of June, in the year of our Lord one thousand nine hundred.

James H. McKenney,
Clerk of the Supreme Court of the United States.

S U P R E M E C O U R T, J U N E 1 9 0 0, T E R M. J U N E 3 0, 6 t h J U D I C I A L D A Y.

And it is ordered by the Court: That said mandate be spread of record and the Sheriff of Oklahoma County retake the said Caffrey into custody and confine him in the County jail of Oklahoma County, pursuant to and as directed by the former order of this court. And on the same day, to-wit: June 30, 1900, the following order was entered in said court.

I N T H E S U P R E M E C O U R T O F T H E T E R R I T O R Y O F O K L A H O M A.

#744.
The Territory of Oklahoma, ex rel.,
Harper S. Cunningham, as Attorney
General,

Plaintiff in error,

vs.

Journal Entry.

Richard F. Caffrey, as County
Clerk of Oklahoma County, O.T.
Defendant in error.

WHEREAS, on the 21st day of September, 1898, a peremptory writ of mandamus issued out of this court to the defendant, which said writ contained the following order:

"Now therefore, having fully heard and considered the mandamus proceedings brought against you in the above behalf, you are hereby commanded, immediately after the receipt of this writ, or the service of the same upon you, to perform the order and direction of said Territorial Board of Equalization in this, to-wit: That you add to the assessed valuation of the property of each person in Oklahoma County, Oklahoma Territory, for the year 1898, the percentage of twenty-four per centum of the assessed valuation of the property in said County returned for the year aforesaid, all as above set forth, and of this writ and what you have done thereunder make due return within ten days from the date of the service of the same upon you, and that you fail not at your peril to obey this order;" and

WHEREAS, on the 23rd day of November, 1898, a citation was duly issued in said cause commanding the said Richard F. Caffrey to appear before the Supreme Court of the Territory of Oklahoma on Friday, the 2nd day of December, 1898, at ten o'clock A.M. of said day, to show cause why he should not be punished for a contempt of said court for failing, neglecting, and refusing to obey the peremptory writ of mandamus of said court issued on the 21st day of September, 1898, in said cause, and

WHEREAS, on the 2nd day of December, 1898, at a session of the Supreme Court of said Territory, said matter coming on to be heard upon the citation aforesaid and the answer of the said Caffrey to said citation, it was found and adjudged by said court that the said Richard F. Caffrey had not complied with the commands of the said peremptory writ of mandamus or performed the duties therein required of him, and that he had shown no legal excuse for said failure, and the following judgment was then and there entered, to-wit:

"It is now ordered and adjudged by the court that the said Richard F. Caffrey is in contempt of this court. And it is further ordered that he be imprisoned in the county jail of Oklahoma County, until such time as he shall in all things perform the duties and do the things required of him, as commanded in said peremptory writ of mandamus. And the sheriff of said Oklahoma County is hereby commanded to immediately arrest the said Richard F. Caffrey, and commit him to said jail.

It is further ordered that if the said Richard F. Caffrey shall file with the sheriff of said Oklahoma County his affidavit, to the effect that he is ready and willing to at once begin the work of extending said taxes upon the tax rolls of said County, as commanded in said writ, and carry the same on to completion as rapidly as the same can be done; and that he will promptly and energetically perform all the requirements of said writ, then the said sheriff shall release him from imprisonment, in order to enable him to perform said duties, and the said commitment shall be suspended until the further order of this Court." and

WHEREAS, It has been made to appear to this court that in compliance with said order the sheriff of Oklahoma County arrested the said Richard F. Caffrey and committed him to the county jail of said county; and it further appearing to the court that while so imprisoned as aforesaid the said defendant Caffrey was on an order of one of the Justices of the Supreme Court of the United States released from custody pending an appeal from the judgment of this court to said Supreme Court of the United States in said matter, and it further appearing to this court by the mandate of the Supreme Court of the United States that said cause has been dismissed in the Supreme Court of the United States for want of jurisdiction therein, and that said former order of this court is still in full force and effect,

IT IS NOW BY THIS COURT HEREBY ORDERED: That the sheriff of Oklahoma County shall retake the said Richard F. Caffrey into his custody and confine him in the jail of Oklahoma County pursuant to the order heretofore made in this cause adjudging the said Richard F. Caffrey guilty of a contempt of this court, and that he keep the said Caffrey safely confined in said jail until he shall have complied with the said order and judgment of this court, made and entered of record on said 2nd day of December, 1898.

ATTEST: Benj. F. Hegler, Clerk of the Supreme Court, (Seal)

Geo. H. Burford, Chief Justice.

337

S U P R E M E C O U R T, J U N E 1 9 0 0, T E R M. J U N E 3 0, 6 t h J U D I C I A L D A Y.

And afterwards, to-wit: On the 2nd day of July, 1900, a warrant of commitment was entered in said cause, which warrant reads in words and figures as follows, to-wit:

UNITED STATES OF AMERICA,)
Territory of Oklahoma.) ss. In the Supreme Court.

Be it Remembered, that on this, the 30th day of June, 1900, the Supreme Court of the Territory of Oklahoma convened pursuant to adjournment of June 8, 1900, June 1900, Term of said Court.

Present, the Honorable Jno. H. Burford, Chief Justice; the Honorables Jno. L. McAtee, Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Horace Speed, United States Attorney; C. H. Thompson, United States Marshal, and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the Court for the transaction of business, the following proceedings were had, to-wit:

#744.

The Territory of Oklahoma
ex rel., Harper S. Cunningham,
as Attorney General,

Plaintiff in error,

vs.

Richard F. Caffrey, as County
Clerk of Oklahoma County, O.T.
Defendant in error.

Journal Entry.

WHEREAS, on the 21st day of September, 1898, a peremptory writ of mandamus issued out of this court to the defendant, which said writ contained the following order:

"Now Therefore, Having fully heard and considered the mandamus proceedings brought against you in the above behalf, you are hereby commanded, immediately after the receipt of this writ, or the service of the same upon you, to perform the order and direction of said Territorial Board of Equalization in this, to-wit: That you add to the assessed valuation of the property of each person in Oklahoma County, Oklahoma Territory, for the year 1898, the percentage of twenty-four per centum of the assessed valuation of the property in said county returned for the year aforesaid, all as above set forth, and of this writ and what you have done thereunder make due return within ten days from the date of the service of the same upon you, and that you fail not at your peril to obey this order." And

WHEREAS, on the 23rd day of November, 1898, a citation was duly issued in said cause commanding the said Richard F. Caffrey to appear before the Supreme Court of the Territory of Oklahoma on Friday, the 2nd day of December, 1898, at ten o'clock A.M. of said day, to show cause why he should not be punished for a contempt of said court for failing, neglecting, and refusing to obey the peremptory writ of mandamus of said court issued on the 21st day of September, 1898 in said cause, and

WHEREAS, on the 2nd day of December, 1898, at a session of the Supreme Court of said Territory, said matter coming on to be heard upon the citation aforesaid and the answer of the said Caffrey to said citation, it was found and adjudged by said court that the said Richard F. Caffrey had not complied with the commands of the said peremptory writ of mandamus or performed the duties therein required of him, and that he had shown no legal excuse for said failure, and the following judgment was then and there entered, to-wit:

"It is now ordered and adjudged by the court that the said Richard F. Caffrey is in contempt of this court. And it is further ordered that he be imprisoned in the county jail of Oklahoma County, until such time as he shall in all things perform the duties and do the things required of him, as commanded in said peremptory writ of mandamus. And the sheriff of said Oklahoma County is hereby commanded to immediately arrest the said Richard F. Caffrey, and commit him to said jail.

It is further ordered that if the said Richard F. Caffrey shall file with the sheriff of said Oklahoma County his affidavit, to the effect that he is ready and willing to at once begin the work of extending said taxes upon the tax rolls of said County, as commanded in said writ, and carry the same on to completion as rapidly as the same can be done; and that he will promptly and energetically perform all the requirements of said writ, then the said sheriff shall release him from imprisonment, in order to enable him to perform said duties, and the said commitment shall be suspended until the further order of this Court." And

WHEREAS, It has been made to appear to this court that in compliance with said order the sheriff of Oklahoma County arrested the said Richard F. Caffrey and committed him to the county jail of said county; and it further appearing to the court that while so imprisoned as aforesaid the said defendant Caffrey was on an order of one of the Justices of the Supreme Court of the United States released from custody pending an appeal from the judgment of this court to said Supreme Court of the United States in said matter; and it further appearing to this court by the mandate of the Supreme Court of the United States that said cause has been dis-

SUPREME COURT, JUNE 1900, TERM JUNE 30, 6th JUDICIAL DAY.

missed in the Supreme Court of the United States for want of jurisdiction herein, and that said former order of this court is still in full force and effect,

IT IS NOW BY THIS COURT HEREBY ORDERED: That the sheriff of Oklahoma County shall retake the said Richard F. Caffrey into his custody and confine him in the jail of Oklahoma County pursuant to the order heretofore made in this cause adjudging the said Richard F. Caffrey guilty of a contempt of this court, and that he keep the said Caffrey safely confined in said jail until he shall have complied with the said order and judgment of this court, made and entered of record on said 2nd day of December, 1898.

Attest:
(Seal) Benj. F. Hegler,
Clerk Supreme Court.

Jno. H. Burford,
Chief Justice.

UNITED STATES OF AMERICA,)
Territory of Oklahoma.) ss.

In the Supreme Court.

I, Benj. F. Hegler, Clerk of the Supreme Court of the Territory of Oklahoma, do hereby certify that the above and foregoing is a full, true and complete copy of the proceedings and order of said Supreme Court in the cause of The Territory of Oklahoma ex rel. Harper S. Cunningham, vs. Richard F. Caffrey, as County Clerk of Oklahoma County, Oklahoma Territory. Made at the June, 1900, term of said Court, on the 30th day of June, 1900, as the same appears on file and of record in my office.

In witness whereof, I hereto set my hand and affix the seal of said Court, at Guthrie, this 2nd day of July, 1900.

(Seal) Benj. F. Hegler,
Clerk Supreme Court.

UNITED STATES OF AMERICA,)
Territory of Oklahoma.) ss.

The Supreme Court of the Territory of Oklahoma:-

To the Sheriff of the County of Oklahoma, in said Territory:

WHEREAS, the Supreme Court of the Territory of Oklahoma did, at the June, 1900, term thereof, on the 30th day of June, 1900, in a certain proceeding in the cause of The Territory of Oklahoma ex rel. Harper S. Cunningham, Attorney General, vs. Richard F. Caffrey, as County Clerk of said Oklahoma County, a duly certified copy of which proceedings and order are hereto attached, make an order commanding you to retake said Richard F. Caffrey into your custody and confine him in the jail of said Oklahoma County, and there him safely keep until he shall have complied with the order and judgment of said Supreme Court made on the 2nd day of December, 1898.

Now, therefore, you are hereby commanded to retake the said Richard F. Caffrey into your custody, and confine him in the county jail of said Oklahoma County, pursuant to said order heretofore made in this case, a certified copy of which is hereto attached, adjudging the said Richard F. Caffrey guilty of a contempt of said Supreme Court; and to keep the said Richard F. Caffrey safely confined in said jail until he shall have complied with the said order and judgment of said Supreme Court heretofore, to-wit: December 2, 1898, made and entered of record in said Court.

Witness, The Honorable JNO. H. BURFORD, the Chief Justice of said Supreme Court, at Guthrie, this 2nd day of July, 1900.

(Seal) Benj. F. Hegler,
Clerk Supreme Court.

SUPREME COURT, JUNE 1900, TERM, JUNE 30, 6th JUDICIAL DAY.

#737.

Territory of Oklahoma ex rel., W.R. Taylor,
County Attorney of Oklahoma County,
Plaintiff in error,
vs.
Richard Caffrey, County Cler, of
Oklahoma County, O. T.
Defendant in error.

And now the mandate of the United States Supreme Court is presented in this cause, which mandate reads in words and figures as follows, to-wit:

UNITED STATES OF AMERICA, ss:

The president of the United States of America,

To the Honorable the Judges of the Supreme Court of the Territory of Oklahoma,

GREETING:

WHEREAS, lately in the Supreme Court of the Territory of Oklahoma, before you, or some of you, in a cause between The Territory of Oklahoma on the relation of E.R. Taylor, County Attorney of Oklahoma County in the Territory of Oklahoma, plaintiff in error, and Richard F. Caffrey, County Clerk of Oklahoma County, Territory of Oklahoma, defendant in error, wherein the judgment of the said Supreme Court, entered in said cause on the 11th day of February, A.D. 1899, was in favor of the said plaintiff in error, The Territory of Oklahoma on the relation of W.R. Taylor, County Attorney of Oklahoma County in the Territory of Oklahoma, and against the said defendant in error, as by the inspection of the transcript of the record of the said Supreme Court, which was brought into the Supreme Court of the United States by virtue of a writ of error and an appeal agreeably to the act of Congress, in such case made and provided, fully and at large appears.

AND WHEREAS, in the present term of October, in the year of our Lord one thousand eight hundred and ninety-nine, the said cause came on to be heard before the said Supreme Court, on the said transcript of record, and it appearing to the Court that a stipulation of counsel for the respective parties that the same judgment be entered in this cause as in case No. 182 on the docket for the present term has been filed. Therefore, in pursuance of said stipulation, It is now here ordered and adjudged by this Court that the writ of error in this cause and this appeal be, and the same are hereby, dismissed for the want of jurisdiction.

April 9, 1900.

You, therefore, are hereby commanded that such proceedings be had in said cause, as according to right and justice, and the laws of the United States, ought to be had, the said writ of error and appeal, notwithstanding.

WITNESS the Honorable MELVILLE W. FULLER, Chief Justice of the United States, the 26th day of June, in the year of our Lord one thousand nine hundred.

James H. McKenney,

Clerk of the Supreme Court of the United
States.

And it is ordered by the Court: That said mandate be spread of record.

#953.

John Romig and
Daniel W. Harding,
Plaintiffs in error,

vs.

Myrtle Gillett,
Defendant in error.

And now this cause comes on for final decision by the Court, upon the argument and briefs submitted therein.

And the Court having duly considered the same and being fully advised in the premises finds that the judgment of the lower Court in this cause should be affirmed at the cost of plaintiffs in error.

It is therefore ordered and adjudged by the Court: That the judgment of the lower Court in this cause be and the same is hereby affirmed at the cost of plaintiffs in error.

Opinion by Hainer, J., all the justices concurring except McAten, J., not sitting.

Ordered that Court now adjourn until September 4, 1900.

34

SUPREME COURT PROCEEDINGS IN VACATION.

#1019.

S. F. Jones,
Plaintiff in error,
vs.
M. F. MacKinnon, and
John Hendley,
Defendants in error.

ORDER.

Now on this 7th day of August, A.D. 1900, comes the plaintiff in error and makes application before the undersigned Associate Justice of the territory of Oklahoma for an order to fix a supersedeas bond and a stay of the enforcement of the judgment therein, as far as the same affects his interests, and upon consideration of said application, and the petition in error filed, and a certified copy of the pleadings and Referee & Receivers reports and judgment rendered.

It is ordered that the said S. F. Jones as principal, with good and sufficient surety, may give an undertaking, in the penal sum of \$4000.00 thousand dollars, to the plaintiff in the court below, reciting his appeal from that part of the said judgment against him as intervenor in the court below for all costs of this action accruing subsequent to December 26, 1899, being the date of filing the petition of intervention herein, including the fees and expenses of A. C. Holland, in the sum of \$1368.88, as well as the fees of the referee and expenses and fees of the stenographer, and all other costs and expenses incurred in this action, which amount to \$317.60, and from that part of the judgment decreeing that the proceeds of the sale of cattle, amounting to the sum of \$4334.26, after allowance of the sum of \$2297.99 for the services and expenses of receiver and the care and custody of the cattle in controversy, was the money and property of plaintiff M. F. MacKinnon, and that said S. F. Jones, intervenor had no right or interest in or to said property or any part thereof.

The said bond shall undertake to pay to the plaintiff below, M. F. MacKinnon, the condemnation money and all costs in case the judgment or final order as above recited and stated as particularly against said intervenor, shall be affirmed in whole or in part against said intervenor, and said bond shall further specifically provide that it is not given to stay any portion of said judgment against the defendant John Hendley, and that it does not to any extent bind the principal or surety to pay any portion of said judgment which is against the defendant John Hendley, and it is further ordered that upon the giving of said undertaking or bond, to be approved by the clerk of the district court of Noble County, Oklahoma Territory, the said money now in the hands of the clerk, to-wit, the sum of \$4334.26, shall be deposited in the Western National Bank as provided by said decree and the enforcement of said judgment shall be fully stayed, pending the appeal in the supreme court of the territory of Oklahoma, so far as the same affects the rights and interests of the plaintiff in error, S. F. Jones.

This order to be and remain in force until the further order of the District Court or Judge thereof, or of the Supreme Court.

B. F. Burwell,
Associate Justice of the Supreme
Court of the Territory of Oklahoma.

SUPREME COURT PROCEEDINGS IN VACATION.

721.

W. E. Cogdall,
Plaintiff in error,
vs.

J. D. Cunningham, Treasurer
of Garfield County, O.T.
Defendant in error.

In the Supreme Court of Oklahoma Territory.

Petition for Mandamus.

The defendant was duly elected treasurer of Garfield county Oklahoma Territory, on the _____ day of November, 1896, and now is the treasurer of said county and Territory:

The plaintiff-relator- is the owner and holder of warrant number 18, registered number Thirteen-13-, which was issued in payment of services as teacher to one "Ethel Leonard," by H.H.Meek, district clerk and L.A.Downing, Director of school district number One Hundred and One- 101-, of garfield county Oklahoma territory, which said warrant is regular and was duly issued in pursuance of a legal contract, of which the following is a true copy, to-wit:-

"No. 18. Office of school district clerk, Marshall, O. T. Feb. 19th. 1897. \$25.00,---
Treasurer school district No. 101, County of Garfield: pay to Ethel Leonard, or order, the sum of Twenty Five Dollars for teaching one months school, out of any funds in your possession, raised or appropriated for such purposes. To J. W. Ray, Treasurer. H. H. Meek, district clerk, L. A. Downing, director." On the back of same the following, to-wit:- "School district order" date Feb. 19th. 1897, payable to Ethel Leonard; on what account? teaching; From what fund? Teachers; Presented and not paid for want of funds, this 26th day of Feb. 1897; Registered number, 13. J.W.Ray, School district treasurer. "Endorsed," "Ethel Leonard."

That said warrant-school district order- was regularly and legally issued, and was and now is, a legal charge against said school board and school district:

That the amount of said warrant- school district order- No. 18- registered No. 13, should, in accordance with statutes made and provided governing the registration and payment of such and like orders, be paid out of any funds now in the hands of said treasurer- defendant- appropriated for teachers' services:

That the amount of said warrant- school district order- at this date is the sum of \$27.00., which said sum of money the defendant, as treasurer of said county, now holds to the credit of said school district No. 101:

The said warrant- school district order- was, prior to the commencement of this action, and at a time when the monies heretofore mentioned were so held by the defendant officer, duly and legally presented to said defendant by plaintiff, for payment, and payment of the same duly and legally demanded of the defendant officer, which said payment was by him, defendant officer, refused, contrary to the statutes in such cases made and provided;

That the monies herein before mentioned, are not otherwise appropriated, but were levied and collected, set apart and dedicated to the payment of teachers' salaries by said school district:

That at the annual school meeting held the second Tuesday in May, 1896, there was voted, by the patrons of said school district a tax of two- 2- per centum on all the taxable property in said school district for the various school purposes:

That the monies hereinbefore mentioned are a portion of the revenue of said school district for a fiscal year other than the fiscal year during which said warrant- school district order- was issued and registered, and are in fact for the first succeeding fiscal year:

That the plaintiff has no plain and adequate remedy in the ordinary course of law.

WHEREFORE, plaintiff prays the honorable court to grant him a peremptory writ of mandamus compelling the defendant officer to pay to said plaintiff the amount of the warrant- school district order- herein mentioned, according to the order of its registration, and for other and proper relief.

Filed June 23, 1898. Benj. F. Hegler, Clerk Supreme Court.

W.E.Cogdall by

W.O.Cromwell his

Attorney.

SUPREME COURT PROCEEDINGS IN VACATION.

IN THE SUPREME COURT OF OKLAHOMA TERRITORY.

721.

W. E. Cogdall,
Plaintiff in error,
vs.
J. D. Cunningham, as
treasurer of Garfield
County, O.T.
Defendant in error.

STIPULATION.

Comes now the defendant and says that the facts are correctly stated in plaintiffs' application herein for a writ of mandamus, and hereby waives the issuance of an alternative writ, and agrees that if the Court should be of the opinion, on the hearing of the application, that "the law of this case is with the plaintiff," a peremptory writ of mandamus shall issue, unless he, defendant officer complies with the terms of the judgment of this court within ten days after its rendition and service upon the defendant.

J. D. Cunningham,

By O.D. Hubbell, his attorney.

Filed January 23, 1898, Benj. F. Hegler,
Clerk Supreme Court.

IN THE SUPREME COURT OF OKLAHOMA TERRITORY.

721.

W. E. Cogdall,
Plaintiff in error,
vs.
J. D. Cunningham, County
Treasurer of Garfield Co., O.T.
Defendant in error.

Waiver and Stipulation.

Comes now the defendant and waives any and all right to object to the remedy herein sought to be enforced.

O.D. Hubbell,
his attorney.

It is hereby further stipulated and agreed that the defendant shall have ten days in which to file an answer to plaintiffs brief and argument, from date of service of same on Defendant.

W. O. Cromwell, Attorney
for plaintiff.

Filed June 30, 1898.
Benj. F. Hegler, Clerk Supreme Court.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N .

UNITED STATES CIRCUIT COURT OF APPEALS

Eighth Circuit.

No. 1030, December Term, 1899.

#1030.

R. S. Cox,
Plaintiff in error.

vs.

The United States of America,
Defendant in error.

In Error to the Supreme Court of the Territory of Oklahoma.

This cause came on to be heard on the transcript of the record from the Supreme Court of the Territory of Oklahoma, and was argued by counsel.

ON CONSIDERATION WHEREOF, it is now here ordered and adjudged by this Court, that the judgment of the said Supreme Court, and the judgment of the District Court of Logan County, Oklahoma Territory, in this cause, be, and the same are each hereby, reversed, without costs to either party in this Court.

It is further ordered that this cause be, and the same is hereby remanded to the said District Court with directions to grant a new trial.

February 12, 1900.

Attest:

John D. Jordan,
Clerk U.S. Circuit Court of Appeals,
(Seal) Eighth Circuit.

UNITED STATES OF AMERICA, ss: No. 1031.

The President of the United States of America,

To the Honorable the Judges of the Supreme Court for the Territory of Oklahoma.

(Seal)

GREETING:

WHEREAS, lately in the Supreme Court for the Territory of Oklahoma, before you, or some of you, in a cause between R.S.Cox, plaintiff in error, and the United States of America, defendant in error, wherein the judgment of the said Supreme Court, affirming the judgment of the District Court of the First Judicial District of Oklahoma Territory, entered in said cause on the 30th day of July, A.D.1897, was in favor of the said defendant in error and against the said plaintiff in error, as by the inspection of the transcript of the record of the said Supreme Court, which was brought into the United States Circuit Court of Appeals for the Eighth Circuit, by virtue of an appeal, agreeably to the act of Congress, in such case made and provided, fully and at large appears,

AND WHEREAS, in the present term of December, in the year of our Lord one thousand eight hundred and ninety-nine, the said cause came on to be heard before the said United States Circuit Court of Appeals, on the transcript of record from said Supreme Court and was argued by counsel:

On Consideration whereof, it is now here ordered, adjudged and decreed by this Court, that the appeal from the said Supreme Court, in the cause, be, and the same is hereby dismissed, without costs to either party in this Court.

February 12, 1900.

You, therefore, are hereby commanded that such proceedings be had in said cause, as according to right and justice, and the laws of the United States, ought to be had, the said appeal notwithstanding.

WITNESS, the Honorable MELVILLE W. FULLER, Chief Justice of the Supreme Court of the United States, the Eleventh day of June, in the year of our Lord one thousand nine hundred.

John D. Jordan,
Clerk of the United States
Circuit Court of Appeals,
Eighth Circuit.

S U P R E M E C O U R T P R O C E E D I N G S I N V A C A T I O N

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

ORDER ASSIGNING JUSTICE BURWELL TO SECOND DISTRICT.

In Chambers, August 25, 1900.

WHEREAS, It has been made to appear to my satisfaction that Justice C.F. Irwin, presiding Judge of the Second Judicial District, is at this time absent from the Territory and therefore unable to discharge the duties of his office, in his said District,

IT IS NOW HEREBY ORDERED, That Justice B.F. Burwell be and he is hereby assigned to the Second Judicial District in the Territory of Oklahoma during the absence of Justice Irwin, to perform the duties of presiding Judge of said Second Judicial District during the absence of said regular presiding Judge, and to hear and determine all matters in Chambers and make all necessary orders pertaining to any of the causes pending in the District Court in any of the Counties of said district.

It is further ordered: That the Clerk transmit a certified copy of this order under his signature and the seal of the Court, to said Justice Burwell, and the Clerk of said Second District.

WITNESS MY HAND, this 25th day of August, A.D. 1900.

Jno. H. Burford,
Chief Justice Supreme Court.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

(Seal).

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

ORDER ASSIGNING CHIEF JUSTICE BURFORD TO FOURTH DISTRICT.

In Chambers, August 25, 1900.

WHEREAS, It has been made to appear to my satisfaction that Associate Justice B.T. Hainer, presiding Judge of the Fourth Judicial District is now absent from the Territory of Oklahoma, and therefore, unable to discharge the duties of presiding Judge of said District,

IT IS NOW BY ME ORDERED that John H. Burford, the presiding Judge of the First Judicial District be and he is hereby assigned to the Fourth Judicial District to act as Presiding Judge of said district during the absence therefrom of the said Associate Justice Hainer, and to make all orders in Chambers that may be required in any matter pending before any of the courts in said Fourth Judicial District, until the return to the said district of the said Justice Hainer.

It is further ordered: That the Clerk transmit a certified copy of this order under his signature and the seal of the Court, to the said Justice Burford, and to the Clerk of said Fourth District.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 25th day of August, A.D. 1900.

Jno. H. Burford,
Chief Justice Supreme Court.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

(Seal).

R E V O C A T I O N.

The appointment of Stella Capron as Deputy Clerk of the Supreme Court of the Territory of Oklahoma, is this day revoked.

Benj. F. Hegler,
Clerk Supreme Court.

This August 28, 1900.

SUPREME COURT, JUNE 1900, TERM. SEPTEMBER 4th, 7th JUDICIAL DAY.

UNITED STATES OF AMERICA,

TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Fourth day of September, 1900, the Supreme Court of the Territory of Oklahoma convened in regular session for the June 1900 term pursuant to adjournment of June 30th.

Present, The Honorable Jno. H. Burford, Chief Justice; the Honorables Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Horace Speed, United States Attorney; C. H. Thompson, United States Marshal, and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business the following proceedings were had, to-wit:

#989,

Frank M. Thompson, Treasurer
of Oklahoma Territory,
Plaintiff in error,
vs.

The Territory of Oklahoma
ex rel, J. C. Strang,
Attorney General, Defendant in error.

And now this cause comes on for final decision and determination by the Court upon the record, oral argument and briefs of counsel therein.

And the court having considered the same, and being fully advised in the premises finds that the Territory should recover in this cause.

It is therefore ordered and adjudged by the Court that the Territory of Oklahoma do have and recover of the plaintiff Frank M. Thompson, Treasurer of the Territory of Oklahoma, the sum of _____ Dollars, the same being interest received by him on Territorial funds deposited by him, together with the costs of this action amounting to _____ Dollars.

#886,

George G. Foggs,
Plaintiff in error,
vs.

The United States,
Defendant in error.

And now this cause comes on for final decision by the Court upon the record, briefs and oral argument submitted therein.

And the Court having duly considered the same, and being fully advised in the premises finds that the judgment herein should be for the United States, and that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of defendant in error.

Opinion by Associate Justice Irwin; all of the Justices concurring except Justice Burwell who presided in the court below, and Justice McAtee dissenting.

#916,

T. T. McKennon,
Plaintiff in error,
vs.

Annie McKennon,
Defendant in error.

And now this cause comes on for final determination by the Court upon the record and briefs of counsel therein.

And the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed at the cost of appellant.

SUPREME COURT, JUNE 1900, TERM, SEPTEMBER 4th, 7th JUDICIAL DAY.

It is therefore ordered and adjudged by the court that this cause now be and the same is hereby affirmed at the cost of plaintiff in error.

Admission of George W. Martin to practice,

Comes now C. R. Buckner, a member of the bar of this court, and moves the admission of George W. Martin an attorney of the bar of the District Court of Washita County, to practice in the Supreme Court.

And it appearing to the Court that applicant is a person skilled in the law, and of good moral character, it is therefore ordered by the Court that George W. Martin be and he is hereby admitted to practice at the bar of the Supreme Court of the Territory, and all the inferior courts thereof.

SUPREME COURT, JUNE 1900, TERM. SEPTEMBER 4th, 7th JUDICIAL DAY.

Admission of George P. Rush to practice in the Supreme Court,

Comes now John W. Scothorn, Assistant United States Attorney, and moves the admission of George P. Rush, a member of the bar of the District Court of Garfield County, to practice in the Supreme Court.

And it appearing that applicant is a person of good moral character and skilled in the law; it is hereby ordered by the Court that George P. Rush be and he is hereby admitted to practice in the Supreme Court of the Territory of Oklahoma, and all the inferior courts thereof.

#953,
John Romig and
Daniel W. Harding,
Plaintiffs in error,
vs.

Myrtle Gillett,
Defendant in error.

Comes now C. R. Buckner, and by leave of court in support of his motion for rehearing files additional authorities herein.

#974,
J. W. Fox, and
D. B. Kinder,
Plaintiffs in error,
vs.

The Territory of Oklahoma,
Defendant in error.

Comes now C. G. Hornor of counsel for plaintiffs in error, and by leave of court files additional authorities herein.

Ordered that court now adjourn until 10 o'clock to-morrow morning.

SUPREME COURT, JUNE 1900, TERM. SEPTEMBER 5th, 8th JUDICIAL DAY.

UNITED STATES OF AMERICA,
 TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Fifth day of September, 1900, the Supreme Court of the Territory of Oklahoma convened in regular session for the June 1900 term pursuant to yesterday's adjournment.

Present, The Honorable Jno. H. Burford, Chief Justice; the Honorables Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Horace Speed, United States Attorney; C. H. Thompson, United States Marshal, and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business the following proceedings were had, to-wit:

ORDER FIXING TERMS IN THE FIFTH JUDICIAL DISTRICT.

Ordered by the Court: That terms of court be fixed as follows in the Fifth Judicial District:

For the County of Blaine, at Watonga, Monday, December 3, 1900;

For the County of Grant, at Pond Creek, Monday, December 17, 1900.

It is further ordered by the Court, That the Clerk transmit a duly certified copy of this order, under his signature and the seal of the court, to each of the District Courts of the Territory, and to the United States Attorney and United States Marshal.

#951,
 J. D. Fox,
 Plaintiff in error,
 vs.

Birdie F. Easter,
 Defendant in error.

And now this cause comes on for final decision by the Court upon the record and briefs submitted therein.

And the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be reversed and cause remanded thereto.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be and the same is hereby reversed and this cause is remanded thereto.

#981,
 The George R. Barse Live
 Stock Commission Company,
 Plaintiff in error,
 vs.

A. J. McKinster and
 Thomas McKinster,
 Defendants in error.

And now this cause comes on for final decision and determination by the court upon the record, briefs, and oral argument submitted therein.

And the Court having duly considered the same, and being fully advised in the premises finds that this court is empowered to render such a judgment as the court below should have rendered, and that so much of the judgment of the District Court as awards to the defendants the sum of Two Thousand four hundred and fifteen dollars damages is reversed, and the part of said judgment awarding the return of sixty-nine head of cattle to the defendants is affirmed, and that the defendants recover of plaintiffs all the costs made in this cause in the District Court of Woods County; that the costs in this court be paid equally by the plaintiffs and defendants, and that the clerk of this court issue a special mandate to the clerk of the District Court of Woods County who is ordered to make a record of this judgment and to issue an execution thereon.

It is therefore ordered and adjudged by the court that the said defendants recover of the plaintiffs all the costs made in this cause in the District Court of Woods County, and that the costs in this court be

S U P R E M E C O U R T, J U N E 1 9 0 0, T E R M. S E P T E M B E R 5 t h, 8 t h J U D I C I A L D A Y.

be paid equally by plaintiffs and defendants.

It is further ordered by the Court that the clerk of this court issue a special mandate herein, and that the clerk of the District Court of Woods County make a record of this judgment and issue execution thereon, and proceed in such manner as if this judgment had been rendered in said lower court.

#993,
C. F. Colcord,
Plaintiff in error,
vs.

William P. Conger,
Defendant in error.

And now this cause comes on for final decision and determination by the Court upon the record and briefs submitted therein.

And the court having duly considered the same, and being fully advised in the premises finds that this cause should be affirmed in part and reversed in part, and that the court below erred in the taxing of costs; that defendant in error should pay its costs incurred after May 10th, 1899, and that it was error to overrule the motion to retax costs; that the order overruling the motion to retax costs should be reversed and cause remanded with directions to sustain said motion and retax costs in accordance with this opinion; and that defendant in error should pay the costs in this court.

#904,
The Alva State Bank,
(a corporation) Plaintiff in error,

vs.

J. P. Renfrew, Treasurer, and
H. C. McGrath, Sheriff of
Woods County, O.T.
Defendants in error.

And now this cause comes on for final determination by the court upon the original opinion therein and a rehearing of the same.

And the Court having duly considered the application for a rehearing of this cause, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiff in error.

#995,
C. B. Utsler,
Plaintiff in error,
vs.

The Territory of Oklahoma,
Defendant in error.

And now this cause comes on for final determination by the court upon the record and briefs submitted therein.

And the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed at costs of appellant.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiff in error.

#987,

Lewis Rockwood, and
Lewis A. Rockwood,
Plaintiffs in error,

vs.

The Estate of H. C. St. John,
Defendant in error.

And now this cause comes on for final determination by the court upon the record and briefs submitted therein.

And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed at the cost of plaintiffs in error.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiffs in error.

#862,

Fremont Bertwell,
Plaintiff in error,

vs.

William R. Haines,
Defendant in error.

And now this cause comes on for final determination by the court upon the record and briefs submitted therein,

And the Court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed at the cost of plaintiff in error.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be, and the same is hereby affirmed at the cost of plaintiff in error.

#367,

Henry H. Pockfinger,
Plaintiff in error,

vs.

John W. Foster, et al,
Defendants in error.

And now this cause comes on for decision by the court upon the record, briefs and oral arguments submitted therein.

And the Court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed at the cost of plaintiff in error.

It is therefore ordered and adjudged by the Court that the judgment of the lower court in this cause be, and the same is hereby affirmed at the cost of plaintiff in error.

And comes now Inc. H. Cotteral of counsel for plaintiff in error and excepts to said decision, and gives notice of an appeal to the Supreme Court of the United States, and asks time to prepare the order therefor; and leave is granted.

#957,

William C. Browning,
Henry W. King, and
Edward B. Dewey, partners,
as Henry W. King & Co.
Plaintiffs in error,

vs.

S. A. Akins, Defendant, and
Burnham, Hanna, Minger & Co.
Interpleaders, Defendants in error.

And now this cause comes on for final decision and determination by the Court upon the record and briefs submitted therein.

And the court having duly examined the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed at the cost of plaintiffs in error.

S U P R E M E C O U R T, J U N E 1900, T E R M. S E P T E M B E R 5th, 8th J U D I C I A L D A Y.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiffs in error.

#924,
A. H. Schowalter, and
Martin Gerber, Plaintiffs in error,
vs.
Jacob Beard,
Defendant in error.

And now this cause comes on for final decision and determination by the court upon the record and briefs submitted therein.

And the court having duly examined the same, and being fully advised in the premises finds that the judgment of the lower court should be affirmed at the cost of Plaintiffs in error.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiffs in error.

#929,
W. P. Perkins,
Plaintiff in error,
vs.
The Territory of Oklahoma,
Defendant in error.

And now this cause comes on for decision and final determination by the court upon the record and briefs submitted therein.

And the court having duly considered the same, and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed at the cost of plaintiff in error.

It is therefore ordered and adjudged by the court that the decision of the lower court in this cause be and the same is hereby affirmed at the cost of plaintiff in error.

It is ordered that court now adjourn until 10 o'clock to-morrow morning.

S U P R E M E C O U R T, J U N E 1900, T E R M. S e p t e m b e r 6th, 9th J U D I C I A L D A Y.

UNITED STATES OF AMERICA,
TERRITORY OF OKLAHOMA.

BE IT REMEMBERED, That on this the Sixth day of September, 1900, the Supreme Court of the Territory of Oklahoma convened in regular session for the June 1900 term pursuant to adjournment of September 5th.

Present, The Honorable Jno. H. Burford, Chief Justice; the Honorables Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Horace Speed, United States Attorney; C. H. Thompson, United States Marshal, and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business the following proceedings were had, to-wit:

#1025,
J. W. Monroe,
J. W. Young,
Plaintiffs in error,
vs.
Earl Beebe,
Defendant in error.

And now a demurrer to the writ in this case is filed and overruled; and it is ordered by the court that defendant in error answer instant, and answer is filed, and this cause is continued to next term.

#1022,
H. E. Swan,
W. F. Thorne,
Plaintiffs in error,
vs.
Peter Wilderson,
John L. Robertson,
Henry Overholser,
Defendants in error.

And now the Court overrules the motion to quash the alternative writ herein, and orders that an answer be filed instant; and answer is filed.

And the Court finds that a peremptory writ should issue herein, and that defendants should pay all costs in this proceeding.

It is therefore ordered and adjudged by the court that a peremptory writ should issue herein, and that the defendants in error should pay all costs herein.

Opinion by Burford, C.J. All the Justices concurring except McAtee, J., not sitting.

#877,
John H. McDonald,
Plaintiff in error,
vs.
Michael Brady,
Defendant in error.

And now this cause comes on for decision by the court upon the petition for rehearing and supersedeas.

And the court having duly considered the same, and being fully advised in the premises finds that the rule of the court in this cause should be sustained, and that a rehearing should be granted; that the judgment in this cause should be vacated; and that leave should be given appellant to file his briefs within 30 days from this date, and that appellee should file his briefs within 30 days thereafter.

#917,
George P. Endicott,
Plaintiff in error,
vs.

Herbert E. Ellis and
Sam Lee, Defendants in error.

And now this cause comes on for decision by the court upon the petition for rehearing and supersedeas.

And the court having duly considered the same and being fully advised in the premises finds that the rule of the court in this cause be suspended, and that a rehearing should be granted; that the judgment in this cause should be vacated; and that leave should be given appellant to file his briefs within thirty days from this date, and that appellee should file their briefs within thirty days thereafter.

#918,
Sam Lee,
Plaintiff in error,
vs.

Herbert E. Ellis and
George P. Endicott,
Defendants in error.

And now this cause comes on for decision by the court upon the petition for rehearing and supersedeas.

And the court having duly considered the same, and being fully advised in the premises finds that the rule of the court in this cause be suspended, and that a rehearing should be granted; that the judgment in this cause should be vacated; and that leave should be given appellant to file his briefs within thirty days from this date, and that appellees should file their briefs within thirty days thereafter.

#850,
Benj. L. Kirtley,
Plaintiff in error,
vs.

May Dykes,
Defendant in error.

And now this cause comes on for decision by the court upon the amended motion for leave to file a petition for rehearing and for stay of mandate.

And the court having duly considered the same, and being fully advised in the premises finds that said petition and stay of mandate should be denied.

It is therefore ordered and adjudged by the court that the petition for rehearing of this cause and the stay of mandate therein be and the same are hereby denied.

#959,
B. J. Conley and
J. C. Caldwell,
Plaintiffs in error,
vs.

H. M. Horner and
E. W. Hill,
Defendants in error.

And now this cause comes on for decision by the court upon the petition for rehearing therein.

And the court finds that the petition for rehearing should be denied for want of notice.

It is therefore ordered and adjudged by the court that the petition for a rehearing of this cause be and the same is hereby denied for want of notice.

~~S U P R E M E C O U R T, J U N E 1900, T E R M. S E P T E M B E R 6th, 9th J U D I C I A L D A Y.~~

#890,
Henry R. Herbein,
Plaintiff in error,
vs.

A. E. Moore and
Frank Rinehart,
Defendant in error.

And now this cause comes on for decision by the court upon the petition for a rehearing herein.

And the court finds that said petition should be dismissed for want of notice.

It is therefore ordered and adjudged by the court that the petition for rehearing in this cause be and the same is hereby dismissed for want of notice.

#906,
Robert Higgins, and
S. A. Higgins,
Plaintiffs in error,
vs.

William Butler and
Maria Butler,
Defendants in error.

And now this cause comes on for decision by the court upon the motion and petition for a rehearing of the same.

And the court having duly considered the same and being fully advised in the premises finds that said petition should be denied.

It is therefore ordered and adjudged by the court that the petition for a rehearing in this cause be and the same is hereby denied at the cost of petitioners

#941,
John Collins and D. F. Wallace,
partners, as Collins and Wallace,
Plaintiffs in error,
vs.

M. J. Green, Treasurer, and
J. W. Rutter, Sheriff Pawnee
County,
Defendants in error.

Ordered by the Court that the petition for a rehearing in this cause be and the same is hereby denied.

#942,
Ed C. Lasater and G. A. Noble,
partners as Lasater & Noble,
Plaintiffs in error,
vs.

M. J. Green, Treasurer, and
J. W. Rutter, Sheriff Pawnee
County, Defendants in error.

Ordered by the Court that the petition for a rehearing in this cause be and the same is hereby denied.

#943,
Mayer Halff, and Solomon Halff,
partners as Halff Brothers,
Plaintiffs in error,
vs.

M. J. Green, Treasurer, and
Board of County Commissioners
Pawnee County, Defendants in error

Ordered by the Court that the petition for a rehearing in this cause be and the same is hereby denied.

S U P R E M E C O U R T, J U N E 1 9 0 0, T E R M. S E P T E M B E R 1 3 t h, 9 t h J U D I C I A L D A Y.

#948,
S. A. Akins, Plaintiff in error,
vs.

S. A. Moore, Defendant in error.

And now this cause comes on for decision by the court upon the application to reinstate the same.

And the court having duly considered said application, and being fully advised in the premises finds that the same should be denied.

It is therefore ordered and adjudged by the court that the application to reinstate in this cause should be, and hereby is denied at the cost of applicant.

#953,
John Bond and
David W. Harding,
Plaintiffs in error,

vs.
George G. Lett,
Defendant in error.

Ordered by the court that the petition for a rehearing of this cause be and the same is hereby denied at the cost of petitioner.

#955,
R. R. Russell,
Plaintiff in error,
vs.

N. J. Green, as Treasurer, and
J. M. Rutter, as Sheriff of Pawnee County, O.T.
Defendants in error.

Ordered by the court that the petition for rehearing of this cause be and the same is hereby denied at the cost of petitioner.

#990,
George S. Parker and
Lettie J. Parker,
Plaintiffs in error,
vs.

Liston Robertson, His next friend,
John Robertson, and A. W. Keith,
Sheriff of Woods County, O.T.
Defendants in error.

Ordered by the court that the motion to dismiss this cause be and the same is hereby sustained, and the appeal be dismissed at the cost of Plaintiffs in error for non-compliance with the rules of court.

#982,
John T. Foust, Plaintiff in error,
vs.

The Territory of Oklahoma,
Defendant in error.

Ordered by the court that the motion to vacate the judgment herein and reinstate this cause be and the same is hereby overruled.

SUPREME COURT, JUNE 1900, TERM, SEPTEMBER 6th, 9th JUDICIAL DAY.

#930,

James F. Ragains,
Plaintiff in error,

vs.

The Geiser Mfg. Co.,
(a corporation)
Defendant in error.

And now this cause comes on for decision by the court upon the record and briefs submitted therein.

And the court having duly considered the same and being fully advised in the premises finds that the judgment of the lower court in this cause should be affirmed at the cost of plaintiff in error.

It is therefore ordered and adjudged by the court that the judgment of the lower court in this cause should be affirmed at the cost of plaintiff in error.

Admission of J. L. Francis to practice,

Comes now J. L. Brown, Attorney of the bar of the county of Oklahoma in said Territory, and moves the admission of J. L. Francis to practice at the bar of the Supreme Court.

And it appearing to the court that applicant is a person of good moral character, and skilled in the law, the attorney's oath is administered to him by the Chief Justice, and it is hereby

Ordered that J. L. Francis be and he is hereby admitted to practice at the bar of the Supreme Court of the Territory, and all the inferior courts thereof.

#1016,

In re
John Curtis, (Habeas Corpus)

Ordered by the Court that the Sheriff be given ten days to file his return herein, and that thirty days thereafter be allowed the petitioner to file his brief in said cause; and that thirty days be allowed respondent from the filing of said petitioner's brief to file his brief herein.

#1019,

S. F. Jones, Plaintiff in error,

vs.

M. F. MacKinnon and John Hendley,
Defendants in error.

Now on this sixth day of September, A.D. 1900, comes the plaintiff in error and files his motion and asks leave to dismiss said appeal without prejudice, and upon consideration of the same, it is by the Court considered, ordered and adjudged that leave is hereby given to the plaintiff in error to dismiss said cause without prejudice and motion therefore being heard, it is considered, ordered and adjudged that the proceedings in error herein begun by said S.F. Jones, intervenor, be and the same are hereby dismissed without prejudice to future appeal and further proceedings in error hereafter and the same matter and cause, by said S. F. Jones.

Jno. H. Burford,
Chief Justice.

#953,

John Romig, and
Daniel W. Harding,
Plaintiffs in error,
vs.

Myrtle Gillett,
Defendant in error.

And now this cause comes on for decision by the Court upon the motion of plaintiffs in error for a rehearing, and the additional authority in support thereof, and the suggestions in opposition thereto.

And the Court having duly considered the same, and having been fully advised in the premises, find that the petition for rehearing herein should be denied.

It is therefore ordered and adjudged by the Court, that the petition for rehearing herein be and the same is hereby denied at the costs of appellants.

SUPREME COURT, JUNE 1900, TERM. SEPTEMBER 6th, 9th JUDICIAL DAY.

#990,
George T. Parker, and
Lettie J. Parker,
Plaintiffs in error,
vs.

Liston Robertson, and his
next friend John Robertson, et al,
Defendants in error.

And now on the 6th day of September, 1900, the same being a regular judicial day of the June 1900 term of said Supreme Court, this cause comes on before the court upon the motion to dismiss the same, and the affidavit in opposition thereto.

And the Court having duly considered the same and being fully advised in the premises finds that the motion to dismiss the appeal herein should be sustained for non-compliance with the rules of the Court.

It is therefore ordered and adjudged by the Court that this appeal be and the same is hereby dismissed at the cost of appellants.

ORDER CHANGING TIME OF LOGAN COUNTY DISTRICT COURT.

Ordered by the Court: That the term of District Court heretofore fixed for Logan County for the Second Thursday of November, be and the same is hereby changed to the Second Monday of November.

It is further ordered, That the clerk transmit a certified copy of this order, under his official signature and the seal of said court, to each of the District Clerks of the Territory, and to the United States Attorney and United States Marshal.

Jno. H. Burford,
Chief Justice.

Attest:
Benj. F. Hegler,
Clerk Supreme Court.

IN THE SUPREME COURT OF OKLAHOMA TERRITORY.

BEFORE HON. B. F. BURWELL, ASSOCIATE JUSTICE.

H.E. Swan,
W.F. Thorne,
Plaintiffs.

vs. #1022. MOTION AND PETITION IN MANDAMUS.

Peter Wilderson,
John L. Robertson,
Henry Overholser,
Defendants.

Plaintiffs for their cause of action against the defendants, state:--

1st. Plaintiffs for their cause of action against defendants aver that they are residents and citizens of Oklahoma County, Territory of Oklahoma, and that they are beneficially interested in this action, being remonstrators against the issuance of the liquor license hereinafter mentioned.

2nd. That the defendants, Peter Wilderson, John L. Robertson and Henry Overholser are members of and constitute the Board of County Commissioners of Oklahoma County, Oklahoma Territory, Peter Wilderson being the chairman thereof.

3rd. That prior to the 13th day of June, 1900, the following named person, James Harrinan, had filed in the office of the County Clerk of said Oklahoma County, his application for license to sell intoxicating liquors in Oklahoma City, Oklahoma, and that within fourteen days after the notices of said application were published, these plaintiffs and others filed in the office of said County Clerk, a remonstrance against the issuance of said license and that thereupon the County Clerk set down the day of hearing for July 2nd, 1900,

SUPREME COURT, JUNE 1900, TERM SEPTEMBER 6th, 9th JUDICIAL DAY.

and that on the day so set, plaintiffs by their attorney, appeared in said County Clerk's Office at the hour of 8 o'clock and 20 minutes, expecting the case to be called at the hour of 9 o'clock, and then and there found for the first time that the Board of County Commissioners had met and dismissed and rejected the remonstrance, issued the license as applied for, and had adjourned. No evidence having been heard from either side.

4th. That on the ____ day of July, 1900, notice of an appeal from said Board of County Commissioners on the aforesaid decision to the District Court of said Oklahoma County, was served on Peter Wilderson, chairman of said Board of County Commissioners, and that on Monday the 23rd day of July, 1900, an appeal bond was filed with the County Clerk of said County, conditioned as the law requires, and was approved by said County Clerk, and that the said license is still outstanding; that the appeal is now pending. Plaintiffs have no remedy at the law.

Wherefore these plaintiffs pray that a Judge of the above named Supreme Court issue a writ of Mandamus, alternative in its nature, and fixing a time wherein the above named defendants shall appear and show cause why they should not proceed at once to meet as a Board of County Commissioners and revoke and recall the license above referred to as void, and that on failure to show any satisfactory reason for their refusal to do so, that a peremptory writ issue, compelling each of the defendants to perform the acts and do the duties above asked for, and that these plaintiffs recover their costs. J.L.Brown, Attorney for Plaintiffs.

Territory of Oklahoma, County of Oklahoma, ss. The undersigned being duly sworn on oath declare that the facts set forth in the foregoing petition and application for mandamus are known in and that they are true.

H.E.Swan,
W.F.Thorne.

Subscribed and sworn to before me this 14th day of August, 1900.

E.C.Thorne,
Notary Public.

My commission as Notary Public expires August 22, 1903.

Filed August 27, 1900. Benj. F. Hegler, Clerk Supreme Court.

IN THE SUPREME COURT OF OKLAHOMA TERRITORY.

BEFORE HON. B. F. BURWELL, ASSOCIATE JUSTICE.

H.E.Swan,
W.F.Thorne,
Plaintiffs,
vs.
Peter Wilderson,
John L. Robertson,
Henry Overholser,
Defendants.

#1022.

ALTERNATIVE WRIT OF MANDAMUS.

To the above named defendants and to each of them:

WHEREAS, on the 17th day of August, 1900, the above named Plaintiffs presented to me their verified petition, praying for a writ of Mandamus against the above named defendants and from the sworn matter so presented to me, B. F. Burwell, Associate Justice of the Supreme Court of the Territory of Oklahoma, it is made to appear:--

1st. That plaintiffs are residents and citizens of Oklahoma County, Oklahoma Territory, and that they are beneficially interested in this action, being remonstrators to hereinafter mentioned petition for liquor license.

2nd. That Peter Wilderson, John L. Robertson and Henry Overholser are the County Commissioners of Oklahoma County, and constitute the Board of County Commissioners thereof.

3rd. That prior to the 18th day of June, 1900, there was filed with the County Clerk of said County by James Harriman, an application for license to sell intoxicating liquors in Oklahoma City, O.T., that a notice was only published and within fourteen days of the first publication thereof, plaintiffs and

S U P R E M E C O U R T, J U N E 1900, T E R M. S E P T E M B E R 6th, 9th J U D I C I A L D A Y.

Others filed with the said County Clerk, a remonstrance against the issuance of said liquor license; that a day of hearing was set before the Board of County Commissioners for the 2nd day of July, 1900, and that the County Commissioners met on the day set for hearing, but before the hour of 8 o'clock, and then and there rejected the remonstrance, granted the license and ordered its issuance.

4th. That plaintiffs served due notice on the chairman of the Board of County Commissioners, of an appeal from said action and decision, to the District Court of said Oklahoma County. That on Monday the 23rd day of July, 1900, an appeal bond, conditioned as the law requires was filed with and approved by the County Clerk of said County, and that said appeal is still pending, and the license outstanding.

Plaintiffs have no remedy at law.

Now therefore on the facts so made to appear and being willing that full justice be done, it is by me ordered that you, Peter Wilderson, John L. Robertson and Henry Overholser proceed to meet as a Board of County Commissioners and to revoke and recall the license to sell intoxicating liquors granted to the said James Marrinan, or that you do appear before the Supreme Court of the Territory of Oklahoma, at the City of Guthrie, at the hour of 10 o'clock A.M. on the 6th day of September, 1900, and show cause, if any you have, why you should not comply with this order, and that you make a plain and truthful statement of your acts and doings in relation to this matter, and that you make no false return to this writ, under pain and penalty of contempt of court. IN WITNESS WHEREOF I have hereunto set my hand this 17th day of August, 1900. B.F. Burwell, Associate Justice Sup. Ct.
Attest: Benj. F. Hegler, Clerk Supreme Court. (Seal).
Endorsed on back as follows: The within Alternative Writ of Mandamus is hereby allowed by me on this the 17th day of August, 1900. B.F. Burwell, Associate Justice.

United States of America, Territory of Oklahoma, ss. I, Benj. F. Hegler, Clerk of the Supreme Court of the Territory of Oklahoma, do hereby certify that the annexed and foregoing is a full, true and complete copy of the alternative writ of mandamus with endorsement thereon, in the cause of H.E. Swan et al. vs. Peter Wilderson, et al., issued August 17, 1900.

In witness whereof, I hereto set my hand and affix the seal of said Court, at Guthrie, this 27th day of August, 1900.

Filed September 8, 1900.

Benj. F. Hegler,
(Seal). Clerk Supreme Court.

Benj. F. Hegler,
Clerk Supreme Court.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

H.E. Swan and
W.F. Thorne,
Plaintiffs,
vs.
Peter Wilderson,
John L. Robertson and
Henry Overholser,
Defendants.

#1022. M O T I O N T O Q U A S H.

Now comes said defendants and move the court to quash the alternative writ of mandamus issued herein, and for reasons therefor says:

First. That said writ and the petition of the plaintiffs, on which the same is based, shows upon its face that the said plaintiffs have no legal capacity to sue, the said defendant not being beneficially interested in the subject of said proceeding to a further or greater extent than other citizens of said County, and said writ was issued for the purpose of compelling the said defendant to perform a public duty, and should have been brought in the name of the Territory on the relation of the County Attorney or Attorney General.

Second. That there is a defect in parties defendant, the allegation of said writ show that one James Marrinan is interested in the subject matter of said action and is a necessary party defendant for the final determination thereof.

Third. That the said writ shows upon its face and by the allegations thereof, that there is another cause of action now pending in the District Court of Oklahoma County, Oklahoma Territory, involving the same

question attempted to be litigated herein, which said action is an appeal from the action of the Board of County Commissioners complained of herein.

Fourth. From the allegations of said writ the same is invoked to compel a performance of a duty which has already been performed and decided by said Board and an appeal therefrom taken to District Court of said County.

Fifth. That the allegation of said writ and petition on which the same is based are not sufficient in law to entitle the plaintiffs to the relief demanded.

W.R.Taylor,
County Attorney, and
Hays & McMechan,
Keaton & Kearful,
Attorneys for Defendants.

Filed September 6, 1900.

Benj. F. Hegler,
Clerk Supreme Court.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

T.E.Swan and W.F.Thorne,----- Plaintiffs.)
vs.)
Peter Wilderson, John L. Robertson and)
Henry Overholser, as Commissioners of)
Oklahoma County, said Territory, ----- Defendants.)

#1022. A N S W E R.

Come now the above named defendants and for their answer to the alternative writ of mandamus issued herein on August 17, 1900, say:

1. That they deny each and every material allegation contained in said alternative writ of mandamus, except such as are hereinafter admitted.

2. That they admit that they are, and were at all the times mentioned in said writ, the duly and legally elected, qualified and acting Commissioners of said Oklahoma County; that the said James Harrinan made due and proper application for a license to sell intoxicating liquors in Oklahoma City, said County and Territory, and that notice thereof was duly and legally published by him, and that said above named plaintiffs, with others, filed a remonstrance against the granting of said license, and that July 2nd, 1900, was set for hearing same; that on said day the said remonstrance, together with the petition of the said James Harrinan, were duly heard and examined by said defendants as such County Commissioners and, after being fully advised in the premises, said defendants as such Board of County Commissioners found that said remonstrance should be denied and the said petition of James Harrinan allowed and a license for the sale of intoxicating liquors granted to him as prayed for in his said petition, which was accordingly done. That thereafter, and within the statutory time, the said plaintiffs duly served their notice to appeal to the District Court of said Oklahoma County from the said findings, orders and proceedings of defendants and gave the required appeal bond, and did thereby appeal said cause to the District Court of said Oklahoma County, where same is now pending and undetermined.

Wherefore, defendants demand that the said issues of fact raised herein by this their ^{said} answer be submitted and tried to a jury and that, if this court cannot afford such a jury trial, then that the said writ be denied and the proceeding dismissed, and for all other relief to which this court may find they are justly entitled.

Hays & McMechan, and
Keaton & Kearful,

Filed September 6, 1900.
Benj. F. Hegler,
Clerk Supreme Court.

SUPREME COURT, JUNE 1900, TERM SEPTEMBER 6th, 9th JUDICIAL DAY.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

H.E. Swan and W.F. Thorne,
Plaintiffs,

vs.

Peter Wilderson, John L. Robertson, } #1025. PERPETUARY WRIT OF HABEAS CORPUS.
and Henry Overholser, }
Defendants. }

THE TERRITORY OF OKLAHOMA:

To Peter Wilderson, John L. Robertson and Henry Overholser:--

WHEREAS, on August 27, 1900, the above named plaintiffs filed in the Supreme Court of said Territory, their sworn petition, alleging

1st. That plaintiffs are residents and citizens of Oklahoma County, Oklahoma Territory, and that they are beneficially interested in this action, being remonstrators to hereinafter mentioned petition for liquor license.

2nd. That Peter Wilderson, John L. Robertson and Henry Overholser are the County Commissioners of Oklahoma County and constitute the Board of County Commissioners thereof.

3rd. That prior to the 18th day of June, 1900, there was filed with the County Clerk of said County, by James Harriman, an application for license to sell intoxicating liquors in Oklahoma City, O.T.; that a notice was duly published and within fourteen days of the first publication thereof, plaintiffs and others filed with the said County Clerk a remonstrance against the issuance of said liquor license; that a day of hearing was set before the Board of County Commissioners for the 2nd day of July, 1900, and that the County Commissioners met on the day set for hearing, but before the hour of 3 o'clock, and then and there rejected the remonstrance, granted the license and ordered its issuance.

4th. That plaintiffs served due notice on the chairman of the Board of County Commissioners, of an appeal from said action and decision, to the District Court of said Oklahoma County. That on Monday, the 23rd day of July, 1900, an appeal bond, conditioned as the law requires, was filed with and approved by the County Clerk of said County, and that said appeal is still pending, and the license outstanding.

Plaintiffs have no remedy at law.

And Whereas, on presentation of said sworn petition to Hon. F.F. Burwell, Associate Justice of the Supreme Court, and on his order there was issued to the said defendants an alternative writ of mandamus, commanding them as follows:

Now therefore on the facts so made to appear and being willing that full justice be done, it is hereby ordered that you, Peter Wilderson, John L. Robertson and Henry Overholser, proceed to meet as a Board of County Commissioners, and to revoke and recall the license to sell intoxicating liquors granted to the said James Harriman. Or that you do appear before the Supreme Court of the Territory of Oklahoma, at the city of Guthrie, at the hour of 10 o'clock A.M. on the 6th day of September, 1900, and show cause, if any you have, why you should not comply with this order, and that you make a plain and truthful statement of your acts and doings in relation to this matter and that you make no false return of this writ, under pain and penalty of contempt of court.

IN WITNESS WHEREOF, I have hereunto set my hand

this 17th day of August, 1900.

F.F. Burwell, Associate Justice Supreme Court O.T.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.

(Seal).

AND WHEREAS, on said 6th day of September, 1900, the said defendants appeared by motion and answer, which were duly submitted to the Court, and the Court being fully advised in the premises, does find and adjudge that the answer and defense of defendants to the command in said alternative writ, are wholly insufficient.

SUPREME COURT, JUNE 1900, TERM, SEPTEMBER 6th, 9th JUDICIAL DAY.

It is therefore by the court ordered that you, and each of you, said defendants do, within ten days from the service of this writ upon you, or on a majority of you, meet and assemble as a Board of County Commissioners at your usual place of meeting, on five days' notice by the County Clerk, or sooner if you can, or sooner meet in special session; and that you then and there proceed to enter an order in your records revoking and cancelling the license granted to and issued to James Harrinan, on July 2nd, 1900, to sell malt, spirituous and vinous liquors, and that you cancel the said license; and that you make due return of your actions and doings under this writ, on or before September 30, 1900. And in this fail not, at your peril. This September 7, 1900. Benj.F.Hegler, Clerk Supreme Court. (Seal).

United States of America, Territory of Oklahoma. ss. I, Benj.F.Hegler, Clerk of the Supreme Court of the Territory of Oklahoma, do hereby certify that the annexed and foregoing is a full, true and complete copy of the Peremptory Writ of Mandamus issued in the foregoing entitled cause on the 7th day of September, 1900.

IN WITNESS WHEREOF, I hereto set my hand and affix the seal of said Court, at Guthrie, this 7th day of September, 1900. Benj.F.Hegler, Clerk Supreme Court. Filed Sept. 13, 1900. Benj.F.Hegler, Clerk Sup. Court.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

H.R.Swan and W.F.Thorne,
Plaintiffs,
vs.
Peter Wilderson,
John L. Robertson and
Henry Overholser,
Defendants.)

#1082. ORIGINAL ACTION OF MANDAMUS.

JOURNAL ENTRY.

On August 27, 1900, the plaintiffs filed in this court their original petition, alleging substantially that the defendants are the Board of County Commissioners of Oklahoma County, and that prior to the 13th day of June, 1900, James Harrinan filed with the County Clerk of that County, an application and petition for license to sell intoxicating liquors; that plaintiffs filed a remonstrance against granting the license, and that on July 2, 1900, the matter of said remonstrance came on before said Board of County Commissioners for hearing; that the license was granted, and that the above named plaintiff's duly appealed to the District Court from the action of the Board of County Commissioners granting license to the said James Harrinan. Plaintiffs prayed for an alternative writ commanding the defendants as a Board of County Commissioners, to meet and cancel the liquor license so granted to James Harrinan, and to cancel it pending the determination of said appeal to the District Court, and that they appear and show cause why such writ should not be made peremptory and final.

An alternative writ of mandamus was issued as prayed for and made returnable before the Supreme Court, on September 5, 1900.

On September 5, 1900, the defendants appeared and filed their "Motion to quash the Alternative Writ of Mandamus" on the grounds,

First: The writ and petition show that plaintiffs have no legal capacity to sue; that they are not beneficially interested in the action to a greater extent than other citizens of the County; that said writ is issued for the purpose of compelling the defendants to perform a public duty, and the action should have been brought in the name of the Territory on the relation of the County Attorney or the Attorney-General.

Second: There is a defect of parties defendant. The allegations of the writ show that James Harrinan is interested in the subject matter of the action and is a necessary party defendant for the final determination thereof.

Third: This action shows on its face that there is another action now pending in the District Court of Oklahoma County on an appeal in this same cause of action.

S U P R E M E C O U R T, J U N E 1900, T E R M, S E P T E M B E R 6th, 9th J U D I C I A L D A Y.

Fourth: The writ involves the performance of an act already performed and decided by the Board of County Commissioners and an appeal taken to the District Court from that action.

Fifth: The allegations of the petition and writ are not sufficient in law to entitle the plaintiffs to the relief demanded.

The court being fully advised in the premises, overruled and denied said motion, and finds as a matter of law that the plaintiffs have the right to carry on this action in their own names, and that James Harrinan is not a necessary party, and that the facts set forth in plaintiffs petition and carried into the alternative writ are sufficient to constitute a cause of action against the defendants for a mandamus.

Thereupon defendants filed their answer admitting substantially that James Harrinan had applied for a license; that plaintiffs had filed a remonstrance; that a hearing had been had thereon before the County Commissioners; and that a license had been granted and at once issued to James Harrinan, and that in due time a notice of appeal had been served on the County Commissioners and a bond given, and that an appeal had been duly taken to the District Court and that said appeal is now pending and undetermined.

On the facts so presented by plaintiffs petition and set out in the answer of the defendants, the court finds that as a matter of law the Board of County Commissioners erred in causing license to issue to James Harrinan before the time to appeal from their decision had expired and that when the appeal was perfected that it then became the duty of the Board of County Commissioners to meet and recall and cancel the license granted to James Harrinan.

It is now on this 6th day of September, 1900, by the court ordered that the alternative writ heretofore issued in this action be made final and mandatory, and that the Clerk of this Court issue a mandatory writ of mandamus to defendants and to each of them, to meet as a Board of County Commissioners within ten days from the service of said writ upon them and to then and there make and enter an order revoking and canceling the license to sell malt, spirituous and vinous liquors, issued to James Harrinan, on the order of said Board of County Commissioners, made and entered on the 2nd day of July, 1900, and that said license be revoked until the final disposition of said appeal now pending in the District Court of Oklahoma County;

It is further ordered that a copy of said peremptory writ be delivered to the Clerk of Oklahoma County, and that on receipt of said writ said Clerk shall immediately cause the necessary notices to be given convening said Board in special session within said ten days, unless said Board shall sooner meet in special or adjourned session, and make said order revoking said license, and the Clerk of this court is directed to transmit a copy of this order to the Clerk of Oklahoma County for his information.

It is further ordered that the defendants pay the costs of this proceeding, taxed at the sum of _____ dollars, for which let execution issue.

Jno. H. Barford,
Chief Justice.

Attest:
Benj. F. Hegler,
(Seal). Clerk Supreme Court.

Filed September 6, 1900.

Benj. F. Hegler,
Clerk Supreme Court.

Monday, (September) 17, 1900.

The Board of County Commissioners met in special session, at the office of the County Clerk of Oklahoma County, Oklahoma, in the Court House at the hour of 10 o'clock A.M. pursuant to a mandate of date September 7, 1900 received from the Supreme Court of the Territory of Oklahoma, wherein the County Commissioners are commanded to assemble and recall and cancel the license to sell malt, spirituous and vinous liquors, to James Harrinan, granted to him by said Commissioners on July 2, 1900, on notice and call duly made by the County Clerk for over five days.

SUPREME COURT, JUNE 1900, TERM. SEPTEMBER 4th, 9th JUDICIAL DAY.

Present: P. Wilderson, Chairman, and J.L. Robertson. And the said matter of said mandate from the said Supreme Court comes up and in obedience to said mandate it is by the Board of Count, Commissioners ordered That the license granted by this Board on July 2nd, 1900, to sell malt, spirituous and vinous liquors to James Harrinan be and the same are hereby cancelled and recalled as per order of said writ of mandamus and the County Clerk is hereby ordered to send a certified copy of this proceeding to the said Supreme Court showing our compliance with said order.

On motion Commissioners adjourned.

Attest:

R.F. Caffrey,
Clerk.

Approved:

P. Wilderson,
Chairman.

Territory of Oklahoma,)
: ss.
County of Oklahoma.)

I, R.F. Caffrey, County Clerk within and for the aforesaid County and Territory, do hereby certify that the annexed and foregoing is a full, true and complete copy Commissioners proceedings of meeting held September 17, 1900.

IN TESTIMONY WHEREOF, I have hereunto set my hand and of ficial seal this 18th day of September, 1900.

R.F. Caffrey,
County Clerk.

Filed October, 5, 1900.

Benj. F. Hegler,
Clerk Supreme Court.

Ordered: That the June, 1900, term of the Supreme Court be now finally adjourned.

SUPREME COURT PROCEEDINGS IN VACATION.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

At the request of a majority of the Justices of the Supreme Court, it is hereby ordered that a special session of the Supreme Court of the Territory of Oklahoma be held at the court rooms in Guthrie, on Saturday, October 20, 1900, at ten o'clock, A.M., for the purpose of fixing terms and places of holding district courts, the assignment of special Judges, and other matters.

And the Clerk of the Supreme Court is hereby directed to place this order of record and notify each of the Associate Justices hereof.

Done in chambers at the city of Guthrie, this 29th day of September, 1900.

Jno. H. Burford,
Chief Justice.

Attest:
Benj. F. Hegler,
Clerk Supreme Court.

Filed September 29, 1900.

Benj. F. Hegler,
Clerk Supreme Court.

THE TERRITORY OF OKLAHOMA)
IN THE SUPREME COURT.)

IN THE MATTER OF ASSIGNMENT OF JUDGE FOR OCTOBER TERM DISTRICT COURT, POTTAWATOMIE COUNTY.

WHEREAS, it has been made to appear that Hon. B.F. Burwell, presiding Judge of the Third Judicial District, will be absent from his District to try certain cases in the District Court of Lincoln County, in which the presiding Judge of said District is disqualified during the October term, 1900, of the District Court of Pottawatomie County; and that the Supreme Court is not in session, it is now therefore ordered,

Ordered, that Hon. Jno. H. Burford, presiding Judge of the First Judicial District, be and he is hereby assigned to the Third Judicial District, to preside in the District Court of Pottawatomie County, in said Third Judicial District, during the absence of said Justice Burwell therefrom; and to try, hear and determine any and every cause pending in said District Court, and to hear and determine any matters properly coming before said Court, or the Judge of said Third Judicial District, during the absence of said regular Judge. And the Clerk of the Supreme Court is hereby directed to immediately transmit a copy of this order, attested by his signature and the seal of said Supreme Court, to the Clerk of said Pottawatomie County District Court, at Tecumseh, and a copy to the said Judge of said First District.

WITNESS my hand, in Chambers, this 10th day of October, 1900.

Jno. H. Burford,
Chief Justice.

Attest:
Benj. F. Hegler,
Clerk Supreme Court.
(Seal).

Filed October 12, 1900.

Benj. F. Hegler,
Clerk Supreme Court.

SUPREME COURT, SPECIAL SESSION, OCTOBER 20, 1900.

UNITED STATES OF AMERICA,

Territory of Oklahoma.

BE IT REMEMBERED, That on this the Twentieth day of October, 1900, the Supreme Court of the Territory of Oklahoma convened in special session pursuant to the call of September 29, 1900.

Present, The Honorable Jno. H. Burford, Chief Justice; the Honorables Jno. L. McAtee, Bayard T. Hainer, Benj. F. Burwell, and Clinton F. Irwin, Associate Justices; Benj. F. Hegler, Clerk; Horace Speed, United States Attorney; C.H. Thompson, United States Marshal, by N.E. Sisson, Deputy, and John C. Orner, Court Crier.

Public proclamation having been duly made of the opening of the court for the transaction of business, the following proceedings were had, to-wit:

ADMISSION OF B.R. MOSER TO PRACTICE.

Comes now Horace Speed, United States Attorney, a member of the bar of this court, and moves the admission of B.R. Moser, a member of the bar of the Oklahoma County District Court, to practice thereat.

And it appearing to the court that applicant is a person of good moral character, skilled in the law, the attorneys' oath is administered to him, and it is now by the court

Ordered, That B.R. Moser be and he is hereby admitted to practice in the Supreme Court of the Territory and all the inferior courts thereof.

ADMISSION OF F.B. DUKE TO PRACTICE.

Comes now Horace Speed, United States Attorney, a member of the bar of this court, and moves the admission of F.B. Duke, a member of the bar of the District Court of Washita County, to practice in the Supreme Court.

And it appearing to the court that the applicant is a person of good moral character, and skilled in the law, the attorneys' oath is administered to him, and it is now by the court

Ordered, That F.B. Duke be and he is hereby admitted to practice in the Supreme Court of the Territory and all the inferior courts thereof.

NATURALIZATION OF EDDE L. HILLMAN.

UNITED STATES OF AMERICA,)
) ss.
 TERRITORY OF OKLAHOMA.)

BE IT REMEMBERED, That at a Term of the Supreme Court holden in and for said Territory, in Guthrie therein on the 20th day of October, in the Year of Our Lord Nineteen Hundred, was present the Honorable Jno. H. Burford, Chief Justice; Honorables Jno. L. McAtee, B.T. Hainer, B.F. Burwell and Clinton F. Irwin, Associate Justices; C.H. Thompson, U.S. Marshal, and Benj. F. Hegler, Clerk of said Court, when the following among other proceedings, were had, to-wit: Edde L. Hillman, a native of Germany, and at present residing within said Territory, appeared in open Court and made application to be admitted to become

A CITIZEN OF THE UNITED STATES,

And it appearing to the satisfaction of the Court, that he had resided in the United States three years next preceding his arrival at the age of twenty-one years, and has continued to reside therein to the time of this application, to-wit: Forty-four years; and said applicant having declared on oath, before this Court, that he will support the Constitution of the United States, and that he doth absolutely and entirely renounce and abjure all allegiance and fidelity to every foreign Prince, Potentate, State, or Sovereignty whatsoever, and particularly to Wilhelm Second, Emperor of Germany, of which he was heretofore

SUPREME COURT, SPECIAL SESSION, OCTOBER 20, 1900.

a subject; the Court being satisfied that said applicant has resided within the United States for the term of five years next preceding his admission, without being at any time during the said five years out of the Territory of the United States, and within this Territory one year at least; and it further appearing to the satisfaction of this Court, that during that time he has behaved as a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the same.

WHEREFORE, IT IS ORDERED BY THE COURT, That the said Edde L. Hillman be and is hereby admitted to become a citizen of the United States.

IN TESTIMONY WHEREOF, I, Benj. F. Hegler, Clerk of the Court aforesaid, have hereunto set my hand and affixed the Seal of said Court, at my office in Guthrie, in said Territory, October 20, 1900.

(Seal). Benj. F. Hegler,
Clerk Supreme Court.

UNITED STATES OF AMERICA,)
ss.)
Territory of Oklahoma.)

In the Supreme Court,
Special Session, October 20, 1900.

ORDER FIXING TERM IN DEWEY COUNTY, FIFTH JUDICIAL DISTRICT.

WHEREAS, it appears to the Court, that a term of Court is necessary in the District Court of the County of Dewey, in the Fifth Judicial District, it is therefore

Ordered by the Court: That a term of the District Court of the County of Dewey, at Taloga, in said Fifth District, be and the same is hereby fixed for Tuesday, October 23, 1900.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, attested by his official signature and the Seal of this Court, to each of the District Courts of the Territory, and also a certified copy to the United States Attorney and United States Marshal.

Jno. H. Burford,
Chief Justice Supreme Court.

Attest:
Benj. F. Hegler,
Clerk Supreme Court.
(Seal).
Filed October 23, 1900.
Benj. F. Hegler,
Clerk Supreme Court.

UNITED STATES OF AMERICA,)
ss.)
Territory of Oklahoma.)

In the Supreme Court,
Special Session, October 20, 1900.

ORDER CHANGING TERM IN WOODS COUNTY, FIFTH JUDICIAL DISTRICT.

WHEREAS, it appears to the Court that a change of time of term is necessary for the District Court of the County of Woods, at Alva, in the Fifth Judicial District of the Territory of Oklahoma, it is therefore

Ordered by the Court: That the term of Court heretofore fixed for the County of Woods, at Alva, for November 1, 1900, be and the same is hereby changed and fixed for Friday, November 2, 1900.

It is further ordered by the Court: That all causes at issue and standing for trial in said court at the date heretofore fixed, shall stand for trial at the date provided for in this order. And all orders, writs and summonses of every character, returnable to said terms as heretofore fixed, shall be returnable and stand for determination at the date provided for in this order. And all persons under bond or recognizance to appear at any of the said terms as heretofore fixed, shall be required to appear on the first day of the term as fixed in this order.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, attested

SUPREME COURT, SPECIAL SESSION, OCTOBER 20, 1900.

by his official signature and the Seal of this Court, to each of the District Courts of the Territory, and also to the United States Attorney and United States Marshal.

Jno. H. Burford,
Chief Justice Supreme Court.

Attest: Benj. F. Hegler,
Clerk Supreme Court.
(Seal).

Filed October 20, 1900.
Benj. F. Hegler,
Clerk Supreme Court.

UNITED STATES OF AMERICA,)
: ss.
TERRITORY OF OKLAHOMA. }

In the Supreme Court,
Special Session, October 20, 1900.

ORDER CHANGING TERMS OF COURT IN KINGFISHER COUNTY IN THE SECOND JUDICIAL DISTRICT.

WHEREAS, it appears to the Court that a change of Term is necessary in Kingfisher County, of the Second Judicial District, it is therefore

Ordered by the Court: That the term of court heretofore fixed for the County of Kingfisher, at Kingfisher, in said Second District, for Monday, November 5, 1900, be and the same is hereby changed to Friday, November 9, 1900; and that the order heretofore made fixing said Term for said Kingfisher County for November 5, be and the same is hereby vacated and set aside.

It is further ordered by the Court: That all causes at issue and standing for trial in said courts at the dates heretofore fixed, shall stand for trial at the date provided for in this order. And all orders, writs and summonses of every character, returnable to said terms as heretofore fixed, shall be returnable and stand for determination at the date provided for in this order. And all persons under bond or recognizance to appear at any of the said terms as heretofore fixed shall be required to appear on the first day of the term as fixed in this order.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, attested by his official signature, and the Seal of this Court, to each of the District Courts of the Territory, and to the United States Attorney and United States Marshal.

Jno. H. Burford,
Chief Justice Supreme Court.

Attest: Benj. F. Hegler,
Clerk Supreme Court.
(Seal.)

Filed October 20, 1900.
Benj. F. Hegler,
Clerk Supreme Court.

UNITED STATES OF AMERICA,)
: ss.
TERRITORY OF OKLAHOMA. }

In the Supreme Court,
Special Session, October 20, 1900.

ORDER FIXING TERM FOR WASHITA COUNTY.

It appearing to the Court that a necessity exists for a term of the District Court for the County of Washita, in the Second Judicial District, it is therefore

Ordered by the Court: That a term of District Court for the County of Washita, in said Territory, be and the same is hereby fixed for Tuesday, November 20, 1900, at New Cordell, in said Washita County.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, attested by his official signature and the seal of the Supreme Court, to each of the District Courts of the Territory

SUPREME COURT, SPECIAL SESSION, OCTOBER 20, 1900.

and that he also transmit copies of this order to the United States Attorney and United States Marshal.

Jno. H. Burford,
Chief Justice.

Attest:
Benj. F. Hegler,
Clerk Supreme Court.
(Seal).

Filed October 20, 1900.

Benj. F. Hegler,
Clerk Supreme Court.

UNITED STATES OF AMERICA,)
: ss.
TERRITORY OF OKLAHOMA.)

In the Supreme Court,
Special Session, October 20, 1900.

ORDER CHANGING TERM IN CANADIAN COUNTY, SECOND JUDICIAL DISTRICT.

WHEREAS, it appears to the Court that a change of the time of Term is necessary for the District Court of the County of Canadian, in said Second Judicial District, it is therefore

ORDERED by the Court: That the Term of Court heretofore fixed for said Canadian County for November 26, 1900, be and the same is hereby changed and fixed for Monday, December 3, 1900, at El Reno, and that said order fixing said Canadian County Term for November 26, 1900, be and the same is hereby vacated and set aside.

It is further ordered by the Court: That all causes at issue and standing for trial in said Court at the date heretofore fixed, shall stand for trial at the date provided for in this order. And all orders, writs and summonses of every character, returnable to said terms as heretofore fixed, shall be returnable and stand for determination at the date provided for in this order. And all persons under bond or recognizance to appear at any of the said terms as heretofore fixed, shall be required to appear on the first day of the Term as fixed in this order.

It is further ordered by the Court: That the Clerk transmit a certified copy of this order, attested by his official signature and the Seal of this Court, to each of the District Courts of the Territory, and to the United States Attorney and United States Marshal.

Jno. H. Burford,
Chief Justice Supreme Court.

Attest:

Benj. F. Hegler,
Clerk Supreme Court.
(Seal).

Filed October 20, 1900.

Benj. F. Hegler,
Clerk Supreme Court.

SUPREME COURT, SPECIAL SESSION, OCTOBER 20, 1900.

#1031,

IN THE SUPREME COURT OF OKLAHOMA TERRITORY.

Territory of Oklahoma on the
relation of Joseph H. Strain,
candidate and nominee of the
Democratic and Peoples Parties
of the First Legislative District
of said Territory for Membership
in the Lower House of the next
or 6th Legislative Assembly
of Oklahoma Territory,

Relator and Plaintiff,

vs.

C.M. Barnes, Governor,
Joseph W. McNeal and
Joseph Wisby,
Members of and constituting
the Territorial Board of
Election Commissioners of
Oklahoma Territory,

Defendants.

Application, Petition and Affidavit

for

Peremptory Writ of Mandamus.

To the Honorable Justices of the Supreme Court of Oklahoma Territory:

Your relator, Joseph H. Strain, respectfully states that he is the candidate of the Democratic party and the candidate of the Peoples party, duly nominated by the party Conventions of said parties as their candidate for the office of Representative in the Lower House of the 6th Legislative Assembly of said Territory, in the First Legislative District of said Territory, and to be voted for by the Electors of said District at the next general election to be held in said District and in all the Districts of said Territory, for the purpose of choosing Members of the next Legislative Assembly of said Territory, which general election is to be held on the 6th day of November, 1900. That proper certificates of nominations and petitions in proper form and with the required number of Electors residing in said Legislative District, were duly made and filed with the Honorable C.M. Barnes, Governor of said Territory, within the time and manner as provided by law, showing that relator was the duly nominated candidate of said parties for said office.

That on the _____ day of October, 1900, the Honorable C.M. Barnes, who was then and is now the Governor of said Territory, duly appointed Joseph W. McNeal and Joseph Wisby Members of the Territorial Board of Election Commissioners for said Territory, and on the _____ day of October, 1900, the defendants took and subscribed the oath of office and duly convened and organized as the Territorial Board of Election Commissioners for said Territory, and do now constitute said Board.

That it was the duty of said Board of Election Commissioners to examine and pass upon the Certificates of all nominations of candidates for the Legislative Assembly to be voted for by the electors of Oklahoma Territory at the next general election, as well as those candidates for Legislative Assembly who petitioned to be nominated or named as candidates by the required number of the electors for their respective districts.

That all such certificates and petitions of nomination of candidates for the Legislative Assembly, were required to be, and were properly filed with the defendant, Hon. C.M. Barnes, Governor of said Territory, within the time required by law.

That on said _____ day of October, 1900, said Board acted upon said certificates and petition of nominations of candidates for the Legislative Assembly of said Territory, which had been filed with the said Governor of said Territory, and upon the certificates and petition of nominations of your relator which had been duly filed with the Governor as aforesaid, and duly determined that this your relator was properly and duly nominated as aforesaid, and that the name of your relator should be placed upon the Democratic ballot under the device of a "Rooster" and also upon the Ballot or ticket of the Peoples party under the device of a "Plow"--which devices had been determined upon by said Board to be the devices to which said parties were entitled.

SUPREME COURT, SPECIAL SESSION, OCTOBER 20, 1900.

That the certificate and petitions of nomination of the relator, so made and filed as aforesaid, and the certificates and petitions of nominations of all the candidates for the Legislative Assembly, made by the various parties in Oklahoma Territory to be voted for by the electors in the several Legislative and Council Districts in said Territory, at the ensuing election, were and had been in due time filed before and with the Governor, as required by law, were and became properly under the jurisdiction of said Territorial Board of Election Commissioners, and said Board assumed jurisdiction over said certificates and petitions, so filed with the Governor, and acted upon the same, and by vote duly determined the ticket and the manner in which each of said candidates should be placed upon the ticket and under what device, and assigned each of said Legislative candidates to the ticket and device to which, in the judgment and opinion of the said Board was right, just and proper in the premises.

That it was the duty of said Territorial Board of Election Commissioners to cause the name of relator to be printed on the Pink Ballot, along with the names of all the other duly found candidates for the Legislative Assembly in Oklahoma Territory, together with the names of the several candidates for delegate to Congress, in their appropriate columns and under their appropriate device.

That said Board had no power or authority to certify to the County Clerk or County Clerks in the District where the relator is a candidate, the name of this relator and to be by said Clerk placed and printed on the ballot along with the candidates for county offices, and the same was and is true of each and all the other candidates for Legislative offices in Oklahoma Territory.

That said Board assumed jurisdiction over, and acted upon each and all of the certificates and petitions of nominations of all the candidates in the various House and Council Districts for the Legislative Assembly in Oklahoma Territory, and said Board unlawfully and wrongfully refused, and decided and determined that the name of relator, candidate as aforesaid, should not be printed on said Pink Ballot, and wrongfully and unlawfully directed that the name of relator, candidate as aforesaid, should be certified to the county clerk of Kay county, there to be acted upon by the county Board of Election Commissioners, and by said county Board to be printed upon the County ticket for said Kay county in said Territory.

That he has been wronged and injured in rights and privileges as a citizen of Kay county and said Territory, and that relator has no plain or adequate remedy in the ordinary course of law, and that relator is beneficially interested as above set out.

That the members of said Board have been duly notified that relator would apply for this writ at this time, as shown by notice hereto attached.

Wherefore, relator prays this Honorable Court that a Peremptory Writ of Mandamus be granted and issued by this Court directing and commanding said Territorial Board of Election Commissioners to convene immediately and cause the name of relator, as a candidate for said Legislative Assembly as aforesaid, to be printed upon said "Pink Ballot" or Territorial Ballot, so prepared by said Territorial Election Board, and your relator further prays that the names of all other candidates for the said Legislative Assembly, so passed upon by said Board, and found to be legal candidates and duly entitled to be printed upon tickets of the various parties be placed upon and printed upon said "Pink Ballot" as required by law, and that said Board and each of them be commanded to so print on said "Pink Ballot" all and each of the names of said Legislative candidates.

Joseph H. Strain, Relator,

By D.T. Jarvis and Joseph Wisby,
Attorneys for Relator.

Filed: October 13, 1900.

Benj. F. Hegler,
Clerk Supreme Court.

S U P R E M E C O U R T , S P E C I A L S E S S I O N , O C T O B E R 20, 1900.

Oklahoma Territory,)
) ss.
Logan County.)

D.T.Jarvis, being duly sworn upon his oath states that he is the attorney and agent for Relator; that he knows the contents of the foregoing petition and information, and that the allegations and statements therein contained are true as he verily believes.

Affiant further states that Relator is absent from this county, and is not present at this time to make this affidavit.

D. T. J A R V I S

Subscribed and sworn to before me this 19th day of October, 1900.

B E N J. F. H E G L E R,
Clerk Supreme Court.

(S E A L).

Filed October 19, 1900.

B E N J. F. H E G L E R,
Clerk Supreme Court.

I N T H E S U P R E M E C O U R T O F O K L A H O M A T E R R I T O R Y .

#1031,

Territory of Oklahoma on the
relation of Joseph H. Strain,
Nominee of the Democratic and
Peoples Parties for Representative
in the Lower House of the
next Legislative Assembly of
Oklahoma Territory, in the
First Legislative District of
said Territory,

Plaintiff,

vs.

C.M.Barnes, Governor of said
Territory, Joseph McNeal and
Joseph Wisby, Members of the
Territorial Board of Election
Commissioners for the said
Territory of Oklahoma,

Defendants.

N O T I C E .

To C.M.Barnes, Governor of Oklahoma Territory, Joseph McNeal and Joseph Wisby, Members of, and constituting the Territorial Board of Election Commissioners for Oklahoma Territory:-

You and each of you are hereby notified that the plaintiff and relator, Joseph H. strain, who is the nominee of the Democratic and Peoples parties for Representative of the First Legislative District of Oklahoma Territory for membership in the Lower House of the next Legislative Assembly of Oklahoma Territory, will make application, in due and proper form, at 10 o'clock A.M., October 20, 1900, in the Honorable Supreme Court of said Territory, (or if said Court is not in session that day, to the Honorable Chief Justice or one of the Associate Justices, at Chambers of said Court) in the city of Guthrie in said Territory, asking and praying for a peremptory writ of mandamus, commanding and compelling you and each of you, as members of, and constituting the Territorial Board of Election Commissioners for said Oklahoma Territory, to print and cause to be printed upon the "Pink Ballot" and the ballot prepared by you, as such Board, the name of this Relator and Plaintiff, under appropriate and proper heads and devices as the candidate and nominee of the Democratic and Peoples party for member of the Lower House of the next Legislative Assembly of said Oklahoma Territory, and to compel you and each of you as said Territorial Board of Election Commissioners, to print on said "Pink

SUPREME COURT, SPECIAL SESSION, OCTOBER 20, 1900.

Ballot and Territorial Ballot the names of all other candidates and nominees of the various parties, as well as Independent Candidates for the 6th Legislative Assembly of Oklahoma Territory.

Of all of which you and each of you will take due and proper notice--

Joseph H. Strain,
Plaintiff and Relator.

By D.T. Jarvis,
Attorney for Plaintiff and Relator.

Guthrie, O.T., October 19, 1900.

We, and each of us accept service of the above and foregoing notice.--

C. M. BARNES,
J. W. MCNEAL,
JOSEPH WISBY,
Members of and constituting Territorial Board
of Election Commissioners for Oklahoma Territory.

Filed October 19, 1900.

BENJ. F. HEGLER,
Clerk Supreme Court.

IN THE SUPREME COURT OF OKLAHOMA TERRITORY.

#1031,

Territory of Oklahoma ex rel
Joseph H. Strain, etc.,
Plaintiff,
vs.

C.M. Barnes, et al.,
Territorial Board of
Election Commissioners,
Defendants.

Come now the respondents in the above entitled cause and demur to the above entitled petition because the same does not contain facts sufficient to constitute a cause of action herein.

J. C. STRANG,
Attorney for Respondents.

#1031,

Territory of Oklahoma ex rel
Joseph H. Strain, Nominee etc.,
Relator,
vs.

In the Supreme Court For Mandamus.

C.M. Barnes, Governor, and
Joseph McNeal, and
Joseph Wisby, Territorial Board
of Election Commissioners,
Respondents.

And now this matter comes on for hearing and determination by the Court, upon the petition supported by affidavit, for a Peremptory Writ of Mandamus herein, and the demurrer thereto.

And the Court, having fully considered the same, and being fully advised in the premises, finds: That said demurrer should be sustained, and that the Peremptory Writ of Mandamus herein asked for by Relator, should be denied, at his cost. It is therefore

Ordered by the Court: That the demurrer to the petition herein be sustained; and that the application for a peremptory writ of Mandamus herein be and the same is hereby denied.

It is further ordered and adjudged that the Relator pay the costs of this proceeding, taxed at _____ dollars.

Ordered by the Court: That this special session of the supreme court be now adjourned.

SUPREME COURT PROCEEDINGS IN VACATION.

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

ORDER ASSIGNING ASSOCIATE JUSTICE IRWIN TO LOGAN COUNTY.

WHEREAS, It has been made to appear that a change of Judge has been granted by the presiding Judge of the District court of Logan County, in the cases of The Territory of Oklahoma v. Harry W. Pentecost; Territory of Oklahoma, v. Joseph Reynolds; Territory of Oklahoma, v. R.S. Reeves and Hila W. Smith v. I.B. Levy, now pending for trial in said Court, and that such cases are pending for trial on the 17th day of December, 1900, and that the Supreme Court is not in session,

It is now by me hereby ordered, That Associate Justice C.E. Irwin be and he is hereby designated to hear and try said causes and is assigned to the District Court of Logan County in the First Judicial District, for the trial of said causes, and to hear, try and determine any and all matters in said Court or District, which may come before him during the period that he may be presiding in said Court during the November Term thereof, 1900.

It is further ordered: That the Clerk transmit a certified copy of this order, attested by his official signature and the seal of the Supreme Court, to the said Associate Justice Irwin and the Clerk of the First Judicial District.

IN WITNESS WHEREOF, I have hereunto set my hand this 3d day of December, A.D. 1900.

J N O. H. B U R F O R D,
Chief Justice.

A T T E S T:

B E N J. F. H E G L E R,
Clerk Supreme Court.

(S E A L).

IN THE SUPREME COURT OF THE TERRITORY OF OKLAHOMA.

ORDER ASSIGNING JUDGE BURFORD TO CANADIAN COUNTY.

WHEREAS, It has been made to appear that Hon. C.E. Irwin, presiding Judge of the Second Judicial District will be absent from his District on official duties during the week beginning December 17, 1900, and that the District Court of Canadian County will be in session during such time,

It is now hereby ordered that John H. Burford, presiding Judge of the first Judicial District, be and he is hereby assigned to the District Court of Canadian County, during the absence of said regular Judge, C.E. Irwin, to hold said district Court of Canadian County during the absence of the regular Judge, and to hear, try and determine any and all matters pending in said court, or that may come before the Judge of said District Court, during his presence in said Second Judicial District, and during the absence of the regular Judge of said District.

It is further ordered: That the Clerk transmit a certified copy of this order, attested by his official signature and the seal of the Supreme Court, to the said Jno. H. Burford, Judge of said First District, and to the Clerk of said Second Judicial District.

IN WITNESS WHEREOF, I have hereunto set my hand this 3d day of December, A.D. 1900.

J N O. H. B U R F O R D,
Chief Justice.

A T T E S T:

B E N J. F. H E G L E R,
Clerk supreme Court.

(S E A L).

SUPREME COURT PROCEEDINGS IN VACATION.

IN THE SUPREME COURT, TERRITORY OF OKLAHOMA.

#1051,

In re

C.R. Buckner,
(Habeas Corpus)

PETITION FOR HABEAS CORPUS.

WHEREAS, It has been made to appear from the petition and affidavit of C.R. Buckner, applicant, that he is restrained of his liberty by one Charles Porter, Sheriff of Garfield County, on a charge of Contempt of the District court of said County, and that said restraint is alleged to be unlawful. Now to the end that justice may be done and the legality of said restraint may be inquired into by the Supreme Court,

It is by me ordered: That a Writ of Habeas Corpus do issue by the Clerk of the Supreme Court, directing the said Charles Porter, sheriff, to have the body of the said C.R. Buckner before the Supreme Court of the Territory of Oklahoma, at the Court room in Guthrie, on the 2d day of January, 1901--then and there to do as may be decided by said court.

It is further ordered: That the said Buckner, pending said hearing, be admitted to bail in the sum of Three Hundred Dollars, with sufficient sureties to the approval of the Clerk of the Supreme court, to the effect that he will be and appear before the Supreme court of said Territory on the 2d day of January, 1901, then and there to surrender himself to the said Charles Porter, sheriff, and perform the order of said Court.

And it is further ordered: That further proceedings in the said Contempt proceedings in the District Court of Garfield County be and the same are hereby stayed until the further order of the Supreme Court at its next session.

And the clerk is ordered to record this order and immediately transmit a certified copy of the same to the Clerk of the District Court of Garfield County, and to immediately notify the presiding Judge of said Court, by telephone or telegraph, of this order.

This Dec. 14, 1900.

A T T E S T:

J H O. H. B U R F O R D,
Chief Justice.B E N J. F. H E G L E R,
Clerk Supreme Court.

(S E A L).

Endorsed: No. 1051, -C.R. Buckner-Habeas corpus- Order- Filed Dec. 14, 1900-Benj. F. Hegler, Clerk Supreme Court.

IN THE SUPREME COURT, TERRITORY OF OKLAHOMA.

#1052,

C.G. Epley, R.I. Boyington and
J.H. Riggs, composing the Board
of County Commissioners of Gar-
field County, Territory of Okla-
homa and Frank T. Hatter, County
Clerk of said County, and ex-
officio the Board of Canvassers of
Election Returns of said County,
Plaintiffs in error,
vs.

ORDER STAYING JUDGMENT OF LOWER COURT.

Charles Loran Moore, Defendant in error.

Now upon application in the above entitled action for the stay of the order and judgment of the District Court of Garfield county made in said action ordering and directing said plaintiffs in error to re-convene as a canvassing board, and it appearing that said plaintiffs in error are entitled to said stay, it

SUPREME COURT PROCEEDINGS IN VACATION.

is hereby

Ordered, that the order made in said action by the District Court of Garfield County in said action, ordering and directing C.G.Epley, R.I.Boyington and J.H.Riggs, composing the Board of County Commissioners of Garfield County, Territory of Oklahoma, and Frank T. Hatter, County Clerk of said county, ex-officio the Board of canvassers of Election Returns of said county, to re-convene on the 18th day of December, 1900, and re-canvass the votes for James K. Beauchamp and Charles Loran Moore for Probate Judge, be and the same is hereby stayed; and said defendant in error, Charles Loran Moore, to acquire no rights by reason of said order pending the appeal in the Supreme court, upon plaintiffs in error executing a good and sufficient bond in the sum of Two Hundred Dollars (\$200) payable to defendant in error; conditioned for the payment of all costs and damages which defendant in error may sustain. Said bond to be approved by the Clerk of the Supreme Court, and this order to be in full force and effect upon approval of said bond.

Done in Chambers this 17th day of December, 1900.

A T T E S T:

CLINTON F. IRWIN,
Associate Justice Supreme Court.

BENJ. F. HEGLER,
Clerk Supreme Court.
(S E A L).

Endorsed: No. 1052-C.G.Epley, et al., vs. Charles Loran Moore-Order staying Judgment.-Filed Dec. 17-1900-
Benj. F. Hegler, Clerk Supreme Court.

#1058,

In re

C.G.Epley, et al.,
(Habeas Corpus)

IN THE SUPREME COURT, TERRITORY OF OKLAHOMA.

UNITED STATES OF AMERICA,)
Territory of Oklahoma.) ss.

In the Matter of the Application of C.G.Epley, R.I.Boyington and Frank T. Hatter, for a Writ of Habeas Corpus.

Now, to-wit, on this the 29th day of December, 1900, upon the application of said petitioners being presented to me at Chambers, City of Guthrie, for a Writ of Habeas Corpus, and having examined the petition and affidavit, find that a Writ of Habeas Corpus should be issued, directed to C.V.Porter, Sheriff of Garfield County, O.T., and C.F.Clark, Under-Sheriff.

It is therefore ordered that a writ of habeas corpus issue, directed to said C.V.Porter, Sheriff of Garfield County, O.T., and C.F.Clark, Under Sheriff of said County, commanding them to have the bodies of the said C.G.Epley, R.I.Boyington, and Frank T. Hatter, before the Supreme Court on the second day of January, 1901, at the Supreme Court room, at the City of Guthrie, then and there to do and receive what shall be ordered concerning them and have you then and there this Writ.

And it is further ordered that you release each of said parties, to-wit: C.G.Epley, R.I.Boyington, and Frank T. Hatter, upon the said parties executing a good and sufficient bond in the sum of \$500 each. Conditioned; that they will submit themselves to your custody on the said second day of January, 1901. Said bond to be taken and approved by C.V.Porter, Sheriff of Garfield County.

WITNESS my hand and the seal of said Court, affixed at my office in the City of Guthrie, O.T., this 29th day of December, 1900.

J H O . . H. B U R F O R D,
Chief Justice Supreme Court.

A T T E S T:

BENJ. F. HEGLER,
Clerk Supreme Court.

F I L E D: Dec. 29, 1900.